



Security Council

Distr.: General
31 December 2002

Original: English

Report by the Secretary-General concerning the credentials of the alternate representative of Mexico on the Security Council

Pursuant to rule 15 of the provisional rules of procedure of the Security Council, the Secretary-General wishes to report that he has received credentials, signed on 27 November 2002 by the Under-Secretary for Foreign Affairs of Mexico, stating that Carlos Pujalte Piñero has been appointed alternate representative of Mexico on the Security Council.

In the opinion of the Secretary-General, these credentials are in order.





Security Council

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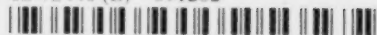
Original: English

Letter dated 2 December 2002 from the Permanent Representative of the Islamic Republic of Iran addressed to the Secretary-General

I have the honour to transmit herewith as an annex to this letter the cases of violations by Iraq of the terms of the ceasefire between the two countries, from 9 October 2001 to 4 April 2002.

I should be grateful if the present letter and its annex would be circulated as a document of the Security Council.

(Signed) M. Javad **Zarif**
Ambassador
Permanent Representative



Annex to the letter dated 2 December 2002 from the Permanent Representative of the Islamic Republic of Iran addressed to the Secretary-General

A. Ceasefire violations

1. On 8 February 2002, from 1015 to 1410 hours, 30 persons from the Iraqi forces were spotted at work at (38S/NC/ND 36000-11000) coordinates of Khosravi map.
2. On 26 November 2001, 6 persons from the Iraqi forces tried to make a road and infiltrate into the territory of the I. R. of Iran at (38S/NC/ND 45000-01000) coordinates of Khosravi map. Faced with the Iranian forces, they fled into the Iraqi territory.
3. On 3 February 2002, at 1705 hours, the Iraqi forces set up 20 cream group tents in North of Faw port at (39R TP 55000-19000) coordinates of Faw map.
4. On 27 December 2001, at 0145 hours, a team of Iraqi mercenaries fired twelve 120mm mortar shells at (38S ND 50300-19300) coordinates of Ghasre Shirin map.
5. On 6 February 2002, at 0145 hours, the Iraqi forces fired fourteen 82mm mortar shells at (38S NC/ND 44400-13600) coordinates of Khosravi map and eighteen 120mm mortar shells at (38S/ND NC 49300-10900) coordinates of Kharatha map.
6. On 19 February 2002, at 0115 hours, the Iraqi mercenaries' stations in the Iraqi territory fired ten 120mm mortar shells and sixteen 60mm bullets at the Iranian forces stationed at (38S ND 48500-18800) coordinates of Ghasre Shirin map. The attacks created a lot of panic among the residents.
7. On 9 October 2001, at 0800 hours, the Iraqi forces set up 14 tents at (38S NC/ND 33000-94000) and (38S NC/ND 32000-92000) coordinates of Khosravi map.
8. On 21 October 2001, at 0835 hours, the Iraqi forces set up tent at (38S NC/ND 38000-98000) coordinates of Khosravi map.
9. On 17 November 2001, at 1200 hours, the Iraqi forces made embankments at (38S ND/NC 51000-97000) coordinates of Kharat ha map.
10. On 27 March 2002, an Iraqi gray painted patrol boat carrying two persons was spotted patrolling in the waters of the I. R. of Iran at (39R TP 46000-48800) coordinates of Khosro abad map.
11. On 29 March 2002, an Iraqi gray painted patrol boat carrying two persons was spotted patrolling in the waters of the I. R. of Iran at (39R TP 33500-58800) coordinates of Khoramshahr map.
12. On 4 April 2002, the Iraqi forces set up two iron watch towers around Al Rashid outpost of Iraq at (38S QA 58000-34000) coordinates of North Hour-al-Hovaizeh map and Al Vahab outpost at (38R QA 62000-27000) coordinates of Chazabeh map.
13. On 30 March 2002, at 2040 hours, the Iraqi forces fired an 81mm mortar shell at (38S PB/QS 88800-05100) coordinates of Gotapeh map.

14. On 4 March 2002, at 1230 hours, an Iraqi patrol boat carrying two persons was spotted patrolling in the waters of the I. R. of Iran at (39R TP 37900-59200) coordinates of Abadan map.
15. On 17 March 2002, at 1150 hours, an Iraqi cream painted patrol carrying three persons was spotted patrolling in the waters of the I. R. of Iran at (39R TP/TN 6500-15700) coordinates of Nahre Alishir map.
16. On 24 March 2002, at 1850 hours, an Iraqi cream painted boat carrying three persons was spotted patrolling in the waters of the I. R. of Iran at (39R TP/TN 65500-15700) coordinates of Nahre Alishir map.
17. On 18 March 2002, at 1340 hours, an Iraqi cream painted patrol boat carrying two persons was spotted patrolling in the waters of the I. R. of Iran at (39R TP 56000-20200) coordinates of Faw map.
18. On 19 March 2002, at 0830 hours, an Iraqi gray painted patrol boat carrying two persons was spotted patrolling in the waters of the I. R. of Iran at (39R TP 46000-48800) coordinates of Khosro Abad map.
19. On 24 March 2002, at 1720 hours, the Iraqi forces placed an anti-aircraft 23mm cannon at the east side of Garmisheh outpost at (38S NB/PB 0900-46000) coordinates of South Mehran map.
20. On 23 March 2002, at 1220 hours, a power shovel was spotted at work around Khaneghin silo at (38S NC/ND 35000-03000) coordinates of Khosravi map.

B. Border events

1. On 10 February 2002, at 1300 hours, an Iraqi civilian named Khoda Bakhsh Hossain Zehi tried to enter the territory of the I. R. of Iran at Shalhe Hadj Hassan region with a boat at (39R TP 43000-53000) coordinates of Abadan map. The Iranian forces arrested him. Eight months before that date, he had entered Pakistan through land, was attracted to M.K.O. and transferred to Iraq. He claims he has deserted them.
2. On 5 February 2002, at 1330 hours, an Iranian shepherd named Omran Fatahi, 40, along with 350 head of sheep was arrested by the Iraqi forces at (38S NC 88000-16000) coordinates of Halaleh map. He was then transferred to Iraq.
3. On 25 February 2002, at 1610 hours, an Iraqi civilian named Mahmood Mohammad Ali tried to enter the territory of the I. R. of Iran at (38S ND 67000-30000) coordinates of Ghasre Shirin map. The Iranian forces arrested him.
4. On 25 February 2002, at 2145 hours, an Iraqi family of ten along with several head of sheep tried to illegally enter the territory of the I. R. of Iran at (38S QA 39000-59000) coordinates of Yebis map. The Iranian forces arrested them.



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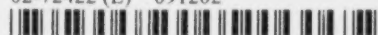
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Letter dated 2 December 2002 from the Permanent Representative of Uganda to the United Nations addressed to the President of the Security Council

On instructions of my Government, I have the honour to transmit herewith a joint communiqué by the Governments of the Republic of Uganda and the Republic of Rwanda, concerning the convening and outcome of the Rwanda/Uganda Joint Permanent Commission, held in Kampala on 21 and 22 November 2002 (see annex).

I should be grateful if the present letter and its annex would be circulated as a document of the Security Council.

(Signed) Matia Mulumba **Semakula Kiwanuka**
Ambassador Extraordinary and Plenipotentiary
Permanent Representative of Uganda to the United Nations



Annex to the letter dated 2 December 2002 from the Permanent Representative of Uganda to the United Nations addressed to the President of the Security Council

Joint communiqué

1. At the invitation of the Republic of Uganda, the Rwanda/Uganda Joint Permanent Commission convened in Kampala on 21 and 22 November 2002. The Rwanda delegation was led by H.E. Dr. Charles Murigande, Minister of Foreign Affairs and Regional Cooperation. The Uganda delegation was led by Hon. J. F. Wapakabulo, Third Deputy Prime Minister and Minister of Foreign Affairs. Both leaders of delegation were accompanied by Ministers, Permanent Secretaries and other senior officials.

2. The Joint Permanent Commission reviewed the various areas of cooperation between the two countries. These included cooperation in trade, industry and tourism; customs and finance; border security and immigration; health; refugees and asylum-seekers; education; energy; transport and communications; gender and women in development; public service and labour; as well as agriculture and livestock.

3. The two delegations were satisfied that the recent measures put in place, including regular contacts at the highest level, have brought about an atmosphere of confidence to restore bilateral relations to the highest extent possible. Consequently, cooperation in the various fields was progressively being normalized.

4. To buttress the achievements so far, the Joint Permanent Commission agreed as follows:

(a) Established a Joint Technical Subcommittee to study in detail and propose, within three months, modalities for the orderly flow of trade activities across the border;

(b) Agreed to intensify cooperation and contacts in the areas of customs and finance, including the regular sharing of experience and information;

(c) Directed the immediate resumption of regular meetings by border authorities to address local issues from time to time;

(d) Established a committee composed of representatives from Rwanda and Uganda, in collaboration with UNHCR, to discuss and operationalize modalities for encouraging and promoting the voluntary repatriation of Rwandese refugees in Uganda;

(e) Agreed to review the memorandum of understanding on cooperation in education, which has expired, taking into account the policy reforms in education that have happened in the two countries;

(f) Agreed to promote the Mbarara/Gikondo double circuit transmission project as a regional one for the supply of additional electricity to Rwanda;

(g) Agreed to harmonize and enforce implementation of road safety measures, including speed limits and other traffic regulations along the northern corridor road system;

- (h) Encouraged the current cooperation mechanisms in the areas of security;
 - (i) Established a Joint Technical Committee to work out and propose appropriate mechanisms to address the status of Ugandan artisans working in Rwanda;
 - (j) Agreed to share experience and information on police activities, empowerment of women, public service reform, transboundary diseases and communications.
5. The two delegations emphasized the need to promote regional cooperation and integration as an avenue for faster growth and development for their two countries.
6. On security, generally, they underscored their two countries' commitment to peace and security both at the bilateral and regional levels. In this respect, the two delegations undertook to exchange information on any dissident groups and asylum-seekers that pose a danger to bilateral and regional cooperation.
7. The Rwanda delegation thanked the Ugandan Government for hosting the hospitality extended to it during its stay in Uganda.
8. The next meeting of the Joint Permanent Commission will be held in Rwanda at a date to be agreed through the normal diplomatic channels.

Done at Kampala on 22 November 2002.

For the Republic of Rwanda:
(Signed) Hon. Dr. Charles **Murigande**
Minister of Foreign Affairs and Regional Cooperation

For the Republic of Uganda:
(Signed) Hon. J. F. **Wapakabulo**
Third Deputy Prime Minister/Minister of Foreign Affairs



Security Council

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9 December 2002

Original: English

Letter dated 6 December 2002 from the Secretary-General addressed to the President of the Security Council

I have the honour to convey the attached communication, dated 29 November 2002, which I received from the Secretary-General of the North Atlantic Treaty Organization (see annex).

I should be grateful if you would bring it to the attention of the members of the Security Council.

(Signed) Kofi A. Annan



**Annex to the letter dated 6 December 2002 from the
Secretary-General addressed to the President of the
Security Council**

In accordance with Security Council resolution 1088, I attach the October monthly report on SFOR operations (see enclosure). I would appreciate your making this report available to the Council.

(Signed) George **Robertson**

Enclosure**Monthly report to the United Nations on SFOR operations**

1. Over the reporting period (1 to 31 October 2002), there were just over 14,600 troops deployed in Bosnia and Herzegovina and Croatia, with contributions from North Atlantic Treaty Organization (NATO) allies and 15 non-NATO countries.

2. During the period under review, the situation in Bosnia and Herzegovina remained stable.

Security

3. SFOR continues to contribute towards the maintenance of a safe and secure environment in Bosnia and Herzegovina; monitor compliance by the Entity Armed Forces; conduct inspections and consolidation of weapons storage sites; provide support to the international organizations working in theatre, and to the Federation authorities in collecting weapons and ammunition in the framework of Operation HARVEST; and monitor possible terrorist-related threats throughout the country.

4. SFOR continued Operation HARVEST during October. In the period 1 January to 31 October 2002, the total number of weapons and ammunition collected amounted to 7,588 small arms (rifles, pistols and revolvers); 1,904,859 rounds of ammunition less than 20 millimetres (mm); 19,043 rounds of ammunition between 20 mm and 76 mm; 2,414 rounds of ammunition more than 76 mm; 33,242 hand grenades; 3,783 mines; 7,957 kilograms of explosives; and 43,667 other items (mortars, mortar rounds, rifle grenades, and hand-made ordnance).

5. On 22 October 2002, SFOR searched a farm complex near Brezje in the Republika Srpska, and confiscated a considerable quantity of weapons, ammunition and explosives. On 28 October 2002, SFOR found and confiscated a rocket launcher, four grenades, an anti-tank mine, two anti-personnel mines and 100 rounds of ammunition during a search operation near Mackovac in the Republika Srpska.

Cooperation and compliance by the parties

6. During the reporting period, the Entity Armed Forces carried out regular training activities which were in compliance with the military provisions of the Dayton Peace Agreement.

7. SFOR monitored a total of 290 training and movement activities, 133 involving the Army of Republika Srpska and 157 involving the Army of the Federation of Bosnia and Herzegovina. A total of 545 mine-clearing activities were monitored over this period, 250 involving the Army of Republika Srpska and 295 involving the Army of the Federation of Bosnia and Herzegovina. SFOR also carried out 90 inspections and verifications of weapons and storage sites: 48 involving the Army of Republika Srpska and 42 involving the Army of the Federation of Bosnia and Herzegovina.

8. The strength of the Federation Armed Forces is now 13,173 soldiers (made up of 8,977 Bosniacs and 4,196 Bosnian Croats). The Army of Republika Srpska currently has 7,443 soldiers.

9. From 11 to 13 October 2002, SFOR inspected the Orao Government Ordnance Factory near Bijelina in the Republika Srpska to determine its compliance with the

terms of the instruction to the Parties. An examination of documents showed evidence that Orao Aviation had been providing aircraft parts and technical expertise to Iraq through the Federal Republic of Yugoslavia, in violation of the Dayton Peace Agreement and Security Council resolutions. As a result, the Republika Srpska National Assembly suspended the head of Orao, the head of the Bosnian Serb Air Force administration and the head of the Government's weapons trade office, while the Republika Srpska Supreme Defence Council accepted the resignation of the Minister of Defence and the Chief of General Staff. In addition, the Republika Srpska Minister of Foreign Trade announced that procedures to establish state-level control over the import-export of weapons would be implemented by 15 November 2002. In the meantime, commerce of that kind has been banned and new inspections have been announced.

Cooperation with international organizations

10. Within capabilities and in accordance with its mandate, SFOR continues to provide assistance to the international organizations in theatre, including the United Nations Mission in Bosnia and Herzegovina, the International Police Task Force, the Office of the High Representative, the International Criminal Tribunal for the former Yugoslavia, the Organization for Security and Cooperation in Europe and the Office of the United Nations High Commissioner for Refugees.

11. SFOR support to the Office of the High Representative in implementing the arbitration decision in Dobrinja for resettlement of some Bosnian Serb families has been concluded. All of the families concerned have been resettled in alternative accommodation.

12. An official agreement on the operational procedures for mutual support between search and rescue agencies^a has been prepared for approval by the parties. It is expected that the final document will be signed in early November 2002 by the SFOR Chief of Staff and the Project Coordinator of the Bosnia and Herzegovina Department of Civil Aviation.

13. During the reporting period, SFOR provided support to a United Nations Environmental Programme (UNEP) depleted uranium investigation team to complete its sampling programme.^b

Outlook

14. The security situation is expected to remain stable.

^a SFOR CJ3 Air and Bosnia and Herzegovina Regional Control Centre.

^b The results of the initial analysis were disclosed by the UNEP team in a press conference held on 11 November 2002, and the final results will be published by March 2003.



Security Council

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Identical letters dated 2 December 2002 from the Permanent Representative of Iraq to the United Nations addressed to the Secretary-General and to the President of the Security Council

On instructions from my Government, I have the honour to transmit to you herewith a letter dated 2 December 2002 from Mr. Naji Sabri, Minister for Foreign Affairs of the Republic of Iraq, concerning the bombing by United States and British aircraft of the oil installations of the South Oil Company, Basra.

I should be grateful if you would have this letter and its annex circulated as a document of the Security Council.

(Signed) Mohammed A. Aldouri
Permanent Representative



**Annex to the identical letters dated 2 December 2002 from
the Permanent Representative of Iraq to the United Nations
addressed to the Secretary-General and to the President of
the Security Council**

At 0615 hours on 1 December 2002, United States and British aircraft bombed the installations of the South Oil Company near a residential district of the city of Basra. Four citizens died in the bombing, including three employees of the South Oil Company, and 27 were wounded, including 10 company employees. The raid also destroyed many installations, a great deal of technical apparatus and many fully equipped buildings belonging to the South Oil Company.

This new crime committed by the United States of America and the United Kingdom forms part of the campaign to escalate terrorist aggression by those two countries against Iraq, one feature of which is an increase in aggressive air raids in the two illegal no-flight zones, averaging 30 to 40 raids per day and targeting Iraqi civilian and military installations and destroying the economic and oil infrastructure and granaries.

The imposition and enforcement of the two illegal no-flight zones is a tyrannical act and a flagrant breach of the Charter of the United Nations and the established principles of international law and constitutes a serious threat to regional and international peace and security. It is also a clear material breach of the resolutions of the Security Council relating to Iraq which have affirmed the sovereignty and political independence of Iraq and the inviolability of its territory. We hope that, in accordance with your responsibilities as specified in Article 99 of the Charter, you will draw the attention of the Security Council to the nature of this aggression and to the danger it poses to peace and security in the region and throughout the world and we request the Security Council to carry out its duties under Article 39 of the Charter concerning action to be taken in the event of any threat to the peace, breach of the peace or act of aggression.

The international community has condemned the imposition by the United States and the United Kingdom of the two no-flight zones and the use of armed force to make it effective, and has seen it as an act of blatant aggression against an independent State and has called for it to be ended immediately.

While you take measures to ensure that this barbarous terrorist aggression is brought to an end and that the Governments of the United States and the United Kingdom are held fully responsible for it, the people and the fearless army of Iraq will continue to exercise Iraq's right to legitimate self defence as established in the Charter of the United Nations and in international law.

(Signed) Naji Sabri
Minister for Foreign Affairs

**Security Council**

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**Report of the Secretary-General on the United Nations
Disengagement Observer Force (for the period
18 May 2002 through 5 December 2002)****I. Introduction**

1. The present report gives an account of the activities of the United Nations Disengagement Observer Force (UNDOF) during the last seven months pursuant to the mandate contained in Security Council resolution 350 (1974) and extended in subsequent resolutions, most recently resolution 1415 (2002) of 30 May 2002.

II. Situation in the area and activities of the Force

2. During the period under review, the ceasefire in the Israel-Syria sector was maintained and the area of operation of UNDOF remained generally quiet, except in the Shab'a farms area (Area 6) as mentioned in my reports on the United Nations Interim Force in Lebanon (UNIFIL). UNDOF supervised the area of separation by means of fixed positions and patrols to ensure that military forces of either party were excluded from it. The Force also carried out fortnightly inspections of equipment and force levels in the areas of limitation. Liaison officers from the party concerned accompanied the inspection teams. As in the past, both sides denied inspection teams access to some of their positions and imposed some restrictions on the Force's freedom of movement.

3. The Force continued to assist the International Committee of the Red Cross with facilities for mail and the passage of persons through the area of separation. Within the means available, medical treatment was provided to the local population on request. During the last seven months, UNDOF assisted in the crossing of 969 students and 450 pilgrims. In addition, UNDOF provided protection at two weddings.

4. In the area of operation, especially in the area of separation, mines continued to pose a threat to UNDOF personnel and local inhabitants. Through the Minefield Security Programme, initiated with the cooperation of the Syrian authorities, numerous known as well as previously unidentified minefields in the area of separation were identified and marked. UNDOF also supported the activities of the United Nations Children's Fund (UNICEF) to promote mine awareness among the civilian population.



5. The Force Commander and his staff maintained close contact with the military authorities of Israel and the Syrian Arab Republic. Both sides generally cooperated with the Force in the execution of its tasks.

6. As of 30 November 2002, UNDOF comprised 1,060 troops, including national support elements, from Austria (372), Canada (191), Japan (45), Poland (357), Slovakia (94) and Sweden (1). In addition, 78 military observers of the United Nations Truce Supervision Organization (UNTSO) assisted the Force in carrying out its tasks. A map showing the deployment of the Force is attached to the present report.

III. Financial aspects

7. By its resolution 56/294 of 27 June 2002, the General Assembly appropriated the amount of \$40.8 million gross, equivalent to \$3.4 million gross per month, for the maintenance of the Force for the period from 1 July 2002 to 30 June 2003. Should the Council decide to extend the mandate of the Force beyond 31 December 2002, as recommended in paragraph 12 below, the cost of maintaining the Force will be limited to the amounts approved by the Assembly.

8. As at 15 November 2002, unpaid assessed contributions to the UNDOF special account for the period from the inception of the Force to 31 December 2002 amounted to \$21 million. Total outstanding assessed contributions for all peacekeeping operations as at the same date amounted to \$1,510 million.

IV. Implementation of Security Council resolution 338 (1973)

9. The Security Council, while deciding in its resolution 1415 (2002) to renew the mandate of UNDOF for a further period of seven months, until 31 December 2002, also called upon the parties concerned to implement immediately resolution 338 (1973), and requested the Secretary-General to submit, at the end of the period, a report on the developments in the situation and the measures taken to implement that resolution. The search for a peaceful settlement in the Middle East and, in particular, the efforts undertaken at various levels to implement resolution 338 (1973) were dealt with in the report of the Secretary-General on the situation in the Middle East (A/57/470), submitted pursuant to General Assembly resolutions 56/31 and 56/32 of 3 December 2001.

V. Observations

10. The situation in the Israel-Syria sector has remained generally quiet. UNDOF, which was established in May 1974 to supervise the ceasefire called for by the Security Council and the agreement on disengagement between Syrian and Israeli forces of 31 May 1974, has continued to perform its functions effectively, with the cooperation of the parties.

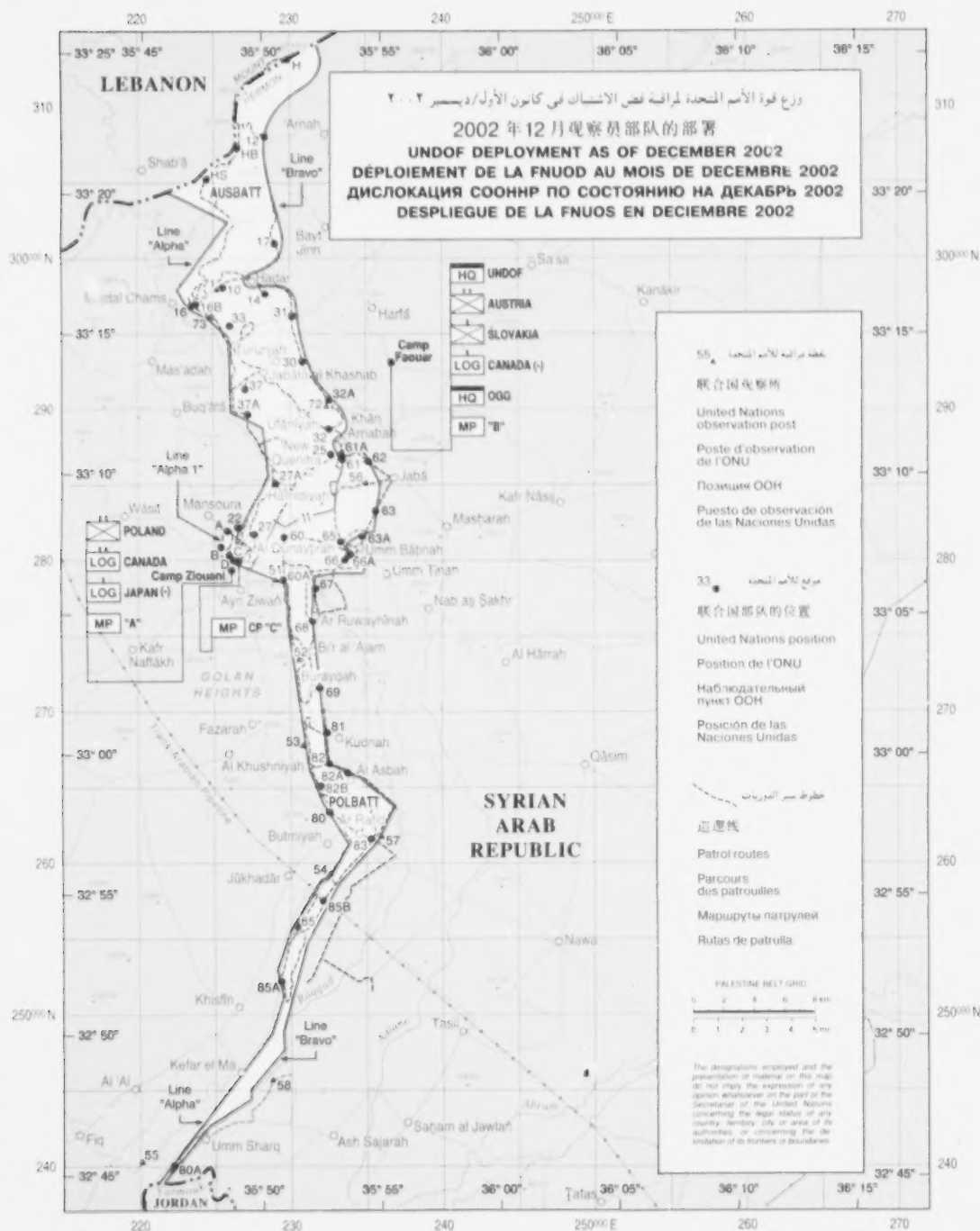
11. Nevertheless, the situation in the Middle East is very tense and is likely to remain so, unless and until a comprehensive settlement covering all aspects of the Middle East problem can be reached. I hope that determined efforts will be made by all concerned to tackle the problem in all its aspects, with a view to arriving at a just

and durable peace settlement, as called for by the Security Council in its resolution 338 (1973).

12. Under the prevailing circumstances, I consider the continued presence of UNDOF in the area to be essential. I therefore recommend that the Security Council extend the mandate of the Force for a further period of six months, until 30 June 2003. The Government of the Syrian Arab Republic has given its assent to the proposed extension. The Government of Israel has also expressed its agreement.

13. In making this recommendation, I must draw attention to the shortfall in the funding of the Force. At present, unpaid assessments amount to some \$21 million. This sum represents money owed to the Member States that contribute the troops who make up the Force. I appeal to the Member States to pay their assessments promptly and in full and to clear all remaining arrears.

14. In conclusion, I wish to pay tribute to Major General Wrangler and to the men and women serving with UNDOF. They have performed with efficiency and devotion to duty the important tasks assigned to them by the Security Council. I take this opportunity to express my appreciation to the Governments contributing troops to UNDOF and to those that provide the UNTSO military observers assigned to the Force.





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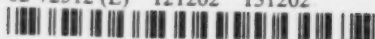
Letter dated 4 December 2002 from the Permanent Representative of Burundi to the United Nations addressed to the President of the Security Council

I have the honour to transmit to you the following documents:

1. The Ceasefire Agreement between the Transitional Government of Burundi and the Conseil national pour la défense de la démocratie-Forces pour la défense de la démocratie (CNDD-FDD) (annex I);
2. The joint communiqué of the Nineteenth Regional Summit on Burundi, held in Arusha on 1 and 2 December 2002 (annex II).

I should be grateful if you would have these documents distributed as documents of the Security Council.

(Signed) Marc Nteturuye
Ambassador
Permanent Representative



Annex I to the letter dated 4 December 2002 from the Permanent Representative of Burundi to the United Nations addressed to the President of the Security Council

Ceasefire Agreement between the Transitional Government of Burundi and the Conseil national pour la défense de la démocratie-Forces pour la défense de la démocratie

1. The questions originally mentioned in the first part of the preamble have been transferred to the annex, with a view to their negotiation at a later stage. However, the negotiations on those questions will not create preconditions for the implementation of the ceasefire.
2. The discussions and clarifications which have been transferred to the annex were provided for under the Peace and Reconciliation Agreement for Burundi.

Article I

1. This ceasefire shall apply throughout the territory of Burundi, between the belligerents as defined. The ceasefire shall take effect on 30 December 2002. The first 14 days from the date of signature should enable the belligerents to communicate to their troops, throughout the chain of command, their decision to cease hostilities. By 30 December 2002, combatants must have completed their movement to assembly areas.
2. This truce or cessation of hostilities shall enter into force within 72 hours after the signing of a Ceasefire Agreement.
3. This Ceasefire Agreement is the final stage of the peace process, itself the culmination of the Arusha Peace and Reconciliation Agreement for Burundi, signed on 28 August 2002 after a process of political negotiations.

Article II

1. The Ceasefire Agreement shall entail:
 - 1.1 The cessation of the supply of ammunition and weaponry;
 - 1.2 The prohibition of the distribution of lethal logistical supplies to or from any armed forces;
 - 1.3 The release of all political prisoners;
 - 1.4 The withdrawal of all foreign troops after the findings of the Commission of Inquiry which will investigate their presence within both the Burundian armed forces and the ranks of CNDD-FDD;
 - 1.5 The total prohibition of mine-laying operations and of operations to obstruct demining;
 - 1.6 The cessation of all propaganda between the parties and of incitement to ethnic hatred both inside and outside the country;
 - 1.7 The cessation of all acts of violence against the population, any act of vengeance, summary executions, torture, harassment, detention or persecution of civilians based on their ethnic origin, religious beliefs or political affiliation,

arming of civilians, use of child soldiers, sexual violence and sponsoring and encouraging terrorists or genocidal ideologies;

- 1.8 The cessation of all air, land and lake attacks and all acts of sabotage;
- 1.9 The cessation of any action that may hinder the proper implementation of the peace process.

Article III

1. The African mission shall be responsible for monitoring and verifying the ceasefire. Prior to this process, joint liaison teams shall be set up which shall function at the national, provincial and local levels.
2. The African mission shall create the organs and mechanisms for monitoring and verifying the ceasefire. It shall draw up its own rules of procedure.

Article IV

1. The joint liaison teams shall comprise representatives of all the signatories and of the African mission. The teams shall report to the African mission through the Joint Ceasefire Commission.
2. The joint liaison teams shall have several roles, including sharing information and facilitating communication between the parties in order to reduce the likelihood of violations of the Ceasefire Agreement, clarify alleged violations and thus help build trust between the signatories so that the peace process is accepted with complete confidence.
3. The duties and functions of the joint liaison teams shall be established by the internal rules of procedure, which shall determine their attributes, functioning, rights and general duties.

Article V

1. The Joint Ceasefire Commission composed of representatives appointed by all the belligerents and by the African mission shall be set up immediately after the signing of the Ceasefire Agreement.
2. The Commission shall hold its first meeting as soon as possible and shall be based in Bujumbura. The Implementation Monitoring Committee shall establish its duties and functions.

Article VI

1. The signatories to this Agreement agree to the following principles, the procedures for the implementation of which are specified in the Arusha Peace and Reconciliation Agreement for Burundi:
 - 1.1 The founding of a State governed by the rule of law, based on national unity, democracy, pluralism and respect for human rights;
 - 1.2 The training of new defence and security forces, composed of government forces and combatants of the armed political parties;
 - 1.3 The establishment of a power-sharing system within the framework of an inclusive Transitional Government.

Article VII

1. A forces technical agreement shall be negotiated and concluded in accordance with the details given in the annex.

Done at Arusha on 2 December 2002.

Signatories

For the Transitional Government of Burundi:

(Signed) **Pierre Buyoya**

President of the Republic of Burundi

For CNDD-FDD:

(Signed) **Pierre Nkurunziza**

Legal representative

Guarantors

(Signed) **Yoweri Kaguta Museveni**

President of the Republic of Uganda (Chairman of the Regional Initiative)

Witnesses

(Signed) **Benjamin Mkapa**

President of the United Republic of Tanzania (Vice-Chairman of the Regional Initiative)

(Signed) **Ambassador Bah**

Special Representative of the African Union in Burundi

(Signed) **Ambassador Dinka**

Special Representative of the United Nations Secretary-General in Burundi

(Signed) **Deputy President Zuma**

Facilitator of the Burundi peace process

Annex 1 to the Burundi Ceasefire Agreement

This annex forms an integral part of the Ceasefire Agreement.

A. Stages of the ceasefire

The ceasefire shall be implemented in two stages, namely:

1. First stage

1.1 Phase I

- 1.1.1 Signing of a detailed ceasefire agreement.
- 1.1.2 Declaration of a cessation of hostilities.
- 1.1.3 Establishment of a Joint Ceasefire Commission and of joint liaison teams, one of which shall deal particularly with the forces technical agreement for Burundi's new defence and security forces;
- 1.1.4 Deployment of the African mission.
- 1.1.5 Establishment by the two parties of a neutral, negotiated commission responsible for investigating the presence of foreign troops in Burundi and the presence of foreign troops within the ranks of CNDD-FDD, as well as the presence of Burundian forces in other countries.
Withdrawal of such forces, if there were any.
- 1.1.6 The belligerents shall move to assembly areas, with their weapons, under the supervision of the African mission. CNDD-FDD combatants shall be quartered in areas to be determined by the joint military commission.
- 1.1.7 Troops of the Burundian armed forces and other combatants shall be confined to other areas to be agreed. The African mission's military observers shall monitor the Burundian army's heavy equipment in order to dispel the fears of opposition former combatants. Heavy equipment shall mean tanks, infantry, combat vehicles, artillery pieces of a calibre larger than 82-mm mortars, aircraft, etc.
- 1.1.8 In view of the security situation in Burundi, some troops of the Burundian army shall be excluded from the application of subparagraph 1.1.7 to enable them to perform the necessary security functions.
- 1.1.9 The Transitional Government of Burundi and CNDD-FDD shall set up joint military units, as a prelude to the establishment of the new army, to perform certain functions.
- 1.1.10 An international monitoring mechanism shall be established in cooperation with the Democratic Republic of the Congo to monitor the security situation in the eastern part of that country on an ongoing basis, in order to prevent "negative forces" from adversely affecting security inside Burundi.
- 1.1.11 A joint commission shall be set up to monitor security within Burundi and in the region and to take appropriate action.

- 1.1.12 CNDD-FDD shall take part in the Transitional Government's power-sharing arrangements. The details shall be negotiated between the parties concerned.
- 1.1.13 After the signing of the ceasefire agreement, the parties shall address the issue of prisoners of war and political prisoners.
- 1.1.14 Burundi's Transitional Government and the African mission shall ensure the welfare of assembled combatants and determine the amounts to be paid to those who are not to be integrated into the new Burundian army. Particular attention shall be paid to combatants and civilians disabled or maimed in the war.
- 1.1.15 The integration programme shall concern the Burundian army, the police and the information services, as provided for in the Arusha Agreement.
- 1.1.16 Burundi's Transitional Government shall ensure that new, integrated units are created, comprising troops of the Burundian army and combatants of the armed groups, according to the agreed procedures;
- 1.1.17 Upon signing the Ceasefire Agreement, CNDD-FDD shall become a political party under the terms of the new law on political parties to be promulgated by the Transitional Government.
- 1.1.18 The ceasefire between the Transitional Government of Burundi and CNDD-FDD shall take effect on 30 December 2002.
- 1.1.19 The Facilitator of the Burundi peace process shall ensure that all political issues and pending security issues are resolved during the interim period.

1.2 Phase II

- 1.2.1 Implementation of disarmament, demobilization and reintegration programmes.
- 1.2.2 Demining and destruction of surplus weapons.

2. Second stage

2.1 Phase I

- 2.1.1 Restructuring and definition of the structure of the new defence and security forces of Burundi.
- 2.1.2 Selection of personnel for Burundi's new defence and security forces.
- 2.1.3 Officer training.
- 2.1.4 Training of soldiers.

2.2 Phase II

- 2.2.1 Establishment of Burundi's new defence and security forces.

B. Obligations

1. Obligations of all the parties

- 1.1 In preparing for the signing of the Ceasefire Agreement, the parties shall give a statement of their expectations and of the mechanisms required to put the provisions of the ceasefire into immediate effect. They undertake to ensure that the content and implications of the ceasefire are transmitted to the leaders and members of their organizations.
- 1.2 Upon signing the Ceasefire Agreement, the parties shall cease all acts of violence and shall desist from public campaigns against the other parties. In other words, the media and public forums, among others, shall not be used to incite hostility.
- 1.3 The parties shall command and control their organizations during the ceasefire period and subsequent processes.
- 1.4 The parties recognize and agree that they are responsible for enforcing the provisions of the Ceasefire Agreement and for adhering to it.
- 1.5 The parties agree to participate and cooperate with the joint liaison teams and with the other ceasefire monitoring and verification mechanisms to be established pursuant to the Ceasefire Agreement.
- 1.6 Before proceeding to disengagement areas, the parties shall mark or indicate all dangerous areas where there are mines or booby traps or shall deactivate such mines or booby traps.
- 1.7 In moving to disengagement areas, the forces of all the parties shall take all their weapons with them.
- 1.8 Disengagement areas and safety corridors shall be delimited and agreed by the parties during the ceasefire negotiations.
- 1.9 As soon as the ceasefire takes effect, the parties agree not to:
 - 1.9.1 Recruit additional forces;
 - 1.9.2 Re-supply, stockpile reserves or acquire additional war materiel, weaponry and/or ammunition that could be used for future operations;
 - 1.9.3 Make flights that could be interpreted as aerial reconnaissance;
 - 1.9.4 Engage in reprisals or acts of intimidation because of past support for or participation in the operations of either of the parties.
- 1.10 The parties shall hand over to the African mission a certified list of their combatants and their weapons and an inventory of their equipment.
- 1.11 The parties shall declare to the African mission the situation and location of their forces and all military equipment in their possession.
- 1.12 The parties shall indicate on maps the areas where there are minefields.
- 1.13 At the time of signing the Ceasefire Agreement, the parties shall designate their members who are to serve on the Joint Ceasefire Commission and the joint liaison teams.

- 1.14 The parties shall ensure that all foreign troops within their ranks are declared and handed over to the African mission and are not included on the certified list for integration purposes.

2. Additional obligations of the Transitional Government of Burundi

- 2.1 At the time of signing the Ceasefire Agreement, Burundi's Transitional Government shall submit to the African mission projects and programmes for ensuring disarmament and the disbanding of all militias. These shall include programmes for collecting up all weapons, ammunition, communications equipment and other lethal equipment, meaning that all such objects will be handed in to the authorities, as well as disarmament, demobilization and repatriation programmes.
- 2.2 These programmes shall be put into effect as soon as the Ceasefire Agreement is signed. All weapons collected up shall be handed over to the African mission for immediate destruction.
- 2.3 The Transitional Government undertakes to sign a status-of-forces agreement with the African peacekeeping mission, which shall provide for, inter alia:
 - 2.3.1 Legal protection of members of the mission;
 - 2.3.2 Access to Burundi's radio frequencies;
 - 2.3.3 Unimpeded use of Burundi's airspace.
- 2.4 The Transitional Government shall also supply the names of all individuals who own weapons officially, and collect up all illegally owned weapons.

C. Integration and training of Burundi's new national defence and security forces

1.1 Structure

- 1.1.1 The parties shall design and agree upon a new national system for Burundi's defence and security.
- 1.1.2 The parties shall agree upon the role, functions and structures of Burundi's new national defence and security forces.
- 1.1.3 The parties shall agree upon the organization, strength and composition of Burundi's new national defence and security forces.

1.2 Training

- 1.2.1 Each member selected for Burundi's new national defence and security forces shall undergo training with a view to standardizing skills, techniques, procedures and regulations, so as to ensure the harmonious integration of military personnel.
- 1.2.2 Training shall be carried out in selected training institutions or in camps chosen for this purpose.
- 1.2.3 Officer training or specialized training may be provided inside or outside Burundi.

- 1.2.4 In order to build their capacities, officers of Burundi's new defence and security forces shall be trained as instructors or specialists in various technical and specialized fields.
- 1.2.5 The parties shall agree on the countries to be selected to provide the necessary assistance in training and instructing Burundi's new national defence and security forces.
- 1.2.6 The commanders of Burundi's new national defence and security forces, as well as local and foreign instructors, shall agree on the syllabus for all subjects to be covered during training.

D. Challenges to be faced

- 1. A forces technical agreement will have to be negotiated and concluded as soon as possible in order to find solutions for the following:
 - 1.1 Surplus personnel who might not be integrated into the new national defence and security forces;
 - 1.2 The war wounded and disabled;
 - 1.3 Persons over the age limit for active service in the new defence and security forces;
 - 1.4 Child soldiers;
 - 1.5 Combatants' ranks and hierarchy.

E. Definitions

- 1. "Belligerents" means:
 - 1.1 The Transitional Government;
 - 1.2 CNDD-FDD and PALIPEHUTU-FNL.
- 2. "Ceasefire" means:
 - 2.1 The cessation of all hostilities and all operations linked to the fighting and the cessation of paramilitary actions by all the belligerents, whether they are for or against the signatories to the Ceasefire Agreement and the civilian population in general. "The ceasefire" also means:
 - 2.1.1 The suspension of the supply of ammunition and weapons;
 - 2.1.2 The prohibition of the distribution of lethal logistical supplies to or from any armed forces;
 - 2.1.3 That, after the signing of the Ceasefire Agreement, the parties will address the issue of prisoners of war and political prisoners;
 - 2.1.4 The prohibition of mine-laying operations and of operations to obstruct demining;
 - 2.1.5 The cessation of all propaganda between the parties and of incitement to ethnic hatred both inside and outside the country;

- 2.1.6 The cessation of all acts of violence against the civilian population, acts of vengeance, summary executions, torture, harassment, detention or persecution of civilians based on their ethnic origin, religious beliefs or political affiliation, arming of civilians, use of child soldiers, sexual violence and sponsoring and encouraging terrorists or genocidal ideologies;
 - 2.1.7 The cessation of all air, land and lake attacks and all acts of sabotage;
 - 2.1.8 The cessation of any action that may hinder the proper implementation of the peace process.
3. "Disengagement of forces" means:
 - 3.1 The breaking of tactical contact between the opposing military forces of the signatories to this Agreement, at places where they are in direct contact.
4. "Distance of separation" means:
 - 4.1 A minimum distance set between opposing forces, with no armed presence in the zone separating them.
5. "Disengagement areas" means:
 - 5.1 Areas designated in the Agreement or subsequently by the Implementation Monitoring Committee as areas in which forces must be assembled for purposes of control and security of the signatories to the Agreement. Disengagement areas may be geographical areas or fixed sites such as barracks or other installations.
6. "Security zones" refers to:
 - 6.1 Zones where there are no armed personnel other than members of international peacekeeping operations.
7. "Safety corridors" refers to:
 - 7.1 Corridors agreed upon by the parties, who ensure that a designated person or entity may move freely and in complete safety within them.
8. "Ceasefire violation" means:
 - 8.1 Failure to abide by any of the above provisions.
9. "Violation of the Ceasefire Agreement" means:
 - 9.1 Failure to respect the spirit and the letter of the Agreement's provisions.
10. "Joint liaison teams" means:
 - 10.1 Teams set up by the parties to the conflict and headed by observers whose role is to share information and facilitate communication between the parties at the working level in order to help reduce the number of ceasefire violations, clarify alleged violations of the Agreement and thus build confidence in the peace process among the public and the signatories.

11. "Cessation of hostilities" means:

11.1 The decision by the belligerents temporarily to cease all their military actions or any actions that may be interpreted as hostile to the other signatories and/or the civilian population. This entails neither disengagement of forces nor disarmament. The cessation of hostilities must take effect immediately upon its signing or proclamation. It is a stage leading to the conclusion of a final Ceasefire Agreement.

11.2 "Disarmament, demobilization and reintegration programmes" are:

11.3 Programmes based on the assumption that demobilization and reintegration will not occur spontaneously and that, unless these processes are put in place, their absence might derail or undermine the achievements of a peace process. They are normally divided into short-, medium- and long-term programmes and generally focus on the transition from a state of war to a state of peace and normal civilian life. They usually address food problems and seek to ensure substantial daily supplies until long-term programmes ensure self-sufficiency.

12. "Integration" means:

12.1 The process whereby various groups and/or individuals belonging to military units are put together to form a new entity. This process must be carried out at all levels of the forces system.

Annex 2

I. The parties agree to enter into negotiations on the following questions:

- 1.1 The return to constitutional legitimacy
- 1.2 Questions relating to the management of the post-war situation
- 1.3 The transition period and its leaders
- 1.4 The social welfare of combatants after the ceasefire
- 1.5 The position of combatants
- 1.6 The reasons why the various groups took up arms
- 1.7 Questions relating to the return to constitutional legitimacy
- 1.8 Questions relating to defence and security
- 1.9 Questions relating to justice
- 1.10 Questions relating to the ceasefire
- 1.11 Transitional institutions
- 1.12 National reconstruction
- 1.13 National reconciliation
- 1.14 Civil service reform
- 1.15 Democracy and good governance.

Done at Arusha on 2 December 2002.

Signatories

For the Transitional Government of Burundi:

(Signed) **Pierre Buyoya**

President of the Republic of Burundi

For CNDD-FDD:

(Signed) **Pierre Nkurunziza**

Legal representative

Guarantors

(Signed) **Yoweri Kaguta Museveni**

President of the Republic of Uganda (Chairman of the Regional Initiative)

Witnesses

(Signed) **Benjamin Mkapa**

President of the United Republic of Tanzania (Vice-Chairman of the Regional Initiative)

(Signed) Ambassador **Bah**, Special Representative of the African Union in Burundi

(Signed) Ambassador **Dinka**, Special Representative of the United Nations Secretary-General in Burundi

(Signed) Deputy President **Zuma**, Facilitator of the Burundi peace process.

Annex II to the letter dated 4 December 2002 from the Permanent Representative of Burundi to the United Nations addressed to the President of the Security Council

Joint communiqué of the nineteenth Regional Summit on Burundi, Arusha, 1 and 2 December 2002

1. At the invitation of H.E. President Yoweri Kaguta Museveni of the Republic of Uganda, Chairman of the Regional Peace Initiative on Burundi, Presidents Benjamin Mkapa of Tanzania, Thabo Mbeki of South Africa and Chairman of the African Union, Pierre Buyoya of Burundi, the Rt. Hon. Meles Zenawi of the Federal Democratic Republic of Ethiopia, Vice President Enock Kavindele of Zambia, the Hon. Emmanuel Ondo Methogo, Deputy Prime Minister of Gabon, the Hon. Godana Bonaya, Minister of Agriculture of the Republic of Kenya, the Hon. Kikaya bin Karubi, Minister of Information of the Democratic Republic of the Congo, the Hon. Lindiwe Sisulu, Minister for Intelligence Services of South Africa, and the Hon. Aziz Pahad, Deputy Minister for Foreign Affairs of South Africa, attended the nineteenth regional Summit on Burundi in Arusha on 1 and 2 December 2002.
2. Also present were the Facilitator of the Burundi ceasefire talks, Deputy President Jacob Zuma of South Africa, Ambassador Berhanu Dinka, Representative of the Secretary-General of the United Nations in Burundi, Ambassador Mamadou Bah, representing the African Union, as well as the representatives of the CNDD-FDD movement.
3. The Regional Summit received a report by Deputy President Jacob Zuma on the outcome of the endeavours he has undertaken in the search for a ceasefire in Burundi, since the eighteenth Regional Summit, held in Dar es Salaam on 6 and 7 October 2002.
4. After extensive discussions involving President Pierre Buyoya of Burundi, on the one hand, and Pierre Nkurunziza, the leader of CNDD-FDD, on the other hand, the transitional Government of Burundi and CNDD-FDD agreed to a ceasefire with effect from the date of the signature of the Ceasefire Agreement.
5. The Summit welcomed the signing of a ceasefire agreement between the National Council for the Defence of Democracy-Forces for the Defence of Democracy (CNDD-FDD) of Pierre Nkurunziza and the Transitional Government of Burundi.
6. The Summit also noted the long and arduous process that preceded the conclusion of the agreement, and commends the two parties on taking this bold, crucial and patriotic step towards peace in the country.
7. The Regional Summit further directed that following the ceasefire agreement, CNDD-FDD will become a political party under a new law governing political parties to be promulgated by the broadened Transitional Government.
8. The Regional Summit also directed that CNDD-FDD will take part in the power-sharing arrangements of the Transitional Government, the details of which will be discussed by the parties concerned.
9. The Regional Summit called on the international community to render assistance in looking after the welfare of the assembled combatants and to work out

packages for those that will not be absorbed in the integration process of the new army. Particular attention is to be paid to the combatants and civilians who have been maimed as a result of the war.

10. The Regional Summit expressed its deep gratitude to:

- President Mkapa, the Government and people of Tanzania for the cordial welcome and hospitality extended to all participants in the nineteenth Regional Summit on Burundi.
- The Facilitator, Deputy President Jacob Zuma, and the Facilitation team for the efforts they have deployed in the search for peace, and encourage them to continue in their endeavours until peace is attained in Burundi.
- The United Nations, through the Special Representative of the Secretary-General for Burundi, Ambassador Berhanu Dinka.
- The African Union, through the Special Representative of the Secretary-General for Burundi, Ambassador Mamadou Bah.

Done at Arusha, United Republic of Tanzania, on the 2nd of December 2002.

**Security Council**

Distr.: General
4 December 2002

Original: English

Draft resolution

The Security Council,

Recalling its previous relevant resolutions, including resolutions 986 (1995) of 14 April 1995, 1284 (1999) of 17 December 1999, 1352 (2001) of 1 June 2001, 1360 (2001) of 3 July 2001, 1382 (2001) of 29 November 2001 and 1409 (2002) of 14 May 2002, as they relate to the improvement of the humanitarian programme for Iraq,

Convinced of the need as a temporary measure to continue to provide for the civilian needs of the Iraqi people until the fulfilment by the Government of Iraq of the relevant resolutions, including notably resolutions 687 (1991) of 3 April 1991 and 1284 (1999), allows the Council to take further action with regard to the prohibitions referred to in resolution 661 (1990) of 6 August 1990 in accordance with the provisions of these resolutions,

Taking note of the Secretary-General's report S/2002/1239 of 12 November 2002,

Determined to improve the humanitarian situation in Iraq,

Reaffirming the commitment of all Member States to the sovereignty and territorial integrity of Iraq,

Acting under Chapter VII of the Charter of the United Nations,

1. *Decides* that the provisions of resolution 986 (1995), except those contained in paragraphs 4, 11 and 12, and the provisions of paragraphs 2, 3 and 6 to 13 of resolution 1360 (2001) and subject to paragraph 15 of resolution 1284 (1999) and the other provisions of this present resolution, shall remain in force for a new period of 180 days beginning at 0001 hours, Eastern Standard Time, on 5 December 2002;

2. *Decides* to consider necessary adjustments to the Goods Review List (S/2002/515) and the procedures for its implementation, for adoption no later than 30 days from the adoption of this resolution and thereafter to conduct regular, thorough reviews;

3. *Decides* that, for the purposes of this resolution, references in resolution 1360 (2001) to the 150-day period established by that resolution shall be interpreted to refer to the 180-day period established pursuant to paragraph 1 above;



4. *Requests* the Secretary-General to provide a comprehensive report to the Council, at least one week prior to the end of the 180-day period, on the basis of observations of United Nations personnel in Iraq, and of consultations with the Government of Iraq, on whether Iraq has ensured the equitable distribution of medicine, health supplies, foodstuffs, and materials and supplies for essential civilian needs, financed in accordance with paragraph 8 (a) of resolution 986 (1995), including in his reports any observations which he may have on the adequacy of the revenues to meet Iraq's humanitarian needs;

5. *Requests* the Secretary-General, in consultation with interested parties, to submit an assessment report on the implementation of the Goods Review List and its procedures 14 days before the end of the 180-day period referred to in paragraph 1 above and to include in the report recommendations on any necessary revision of the Goods Review List and its procedures;

6. *Decides* to remain seized of the matter.

**Security Council**

Distr.: General
9 December 2002

Original: English

Draft resolution

The Security Council,

Reaffirming its resolutions 864 (1993) of 15 September 1993 and all subsequent relevant resolutions, in particular resolutions 1127 (1997) of 28 August 1997, 1173 (1998) of 12 June 1998, 1237 (1999) of 7 May 1999, 1295 (2000) of 18 April 2000, 1336 (2001) of 23 January 2001, 1348 (2001) of 19 April 2001, 1374 (2001) of 19 October 2001, 1404 (2002) of 18 April 2002, 1412 (2002) of 17 May 2002, 1432 (2002) of 15 August 2002, 1433 (2002) of 15 August 2002 and 1439 (2002) of 18 October 2002,

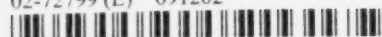
Reaffirming also its commitment to preserve the sovereignty and territorial integrity of Angola,

Welcoming the steps taken by the Government of Angola and Uniao Nacional para a Independencia Total de Angola (UNITA) toward the full implementation of the "Accordos de Paz", the Lusaka Protocol (S/1994/1441, annex), the Memorandum of Understanding of 4 April 2002 (S/2002/483), relevant Security Council resolutions, the declaration on the peace process issued by the Government of Angola on 19 November 2002 (S/2002/1337) and the completion of the work of the Joint Commission, as expressed in the Joint Commission declaration signed on 20 November 2002,

Expressing once again its concern regarding the humanitarian effects of the present situation on the civilian population of Angola,

Acting under Chapter VII of the Charter of the United Nations,

1. *Expresses its intention* to give full consideration to the additional report of the monitoring mechanism established pursuant to resolution 1295 (2000);
2. *Decides* that the measures imposed by paragraph 19 of resolution 864 (1993), paragraph 4 (c) and (d) of resolution 1127 (1997) and paragraphs 11 and 12 of resolution 1173 (1998) shall cease to have effect from the date of adoption of this resolution;
3. *Decides further* to dissolve the Committee established by paragraph 22 of resolution 864 (1993) with immediate effect;



4. *Decides* to request that the Secretary-General close the United Nations Trust Fund established pursuant to paragraph 11 of resolution 1237 (1999) and to make the necessary arrangements to reimburse, on a proportionate basis and in accordance with relevant financial procedures, those Members States who provided voluntary contributions to the United Nations Trust Fund.



Security Council

Distr.: General
4 December 2002
English
Original: Arabic

Identical letters dated 3 December 2002 from the Permanent Representative of Iraq to the United Nations addressed to the Secretary-General and to the President of the Security Council

On instructions from my Government, I have the honour to transmit to you herewith the daily report on the activities carried out by the inspection teams of the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC) and the International Atomic Energy Agency (IAEA) in Iraq on 3 December 2002.

I should be grateful if you would have the present letter and its annex circulated as a document of the Security Council.

(Signed) Mohammed A. Aldouri
Permanent Representative



Annex to the identical letters dated 3 December 2002 from the Permanent Representative of Iraq to the United Nations addressed to the Secretary-General and to the President of the Security Council

Daily report on the activities of the UNMOVIC and IAEA inspection teams in Iraq

Report on the activities carried out on 3 December 2002

The activities of the UNMOVIC and IAEA inspection teams on Tuesday, 3 December 2002, were as follows:

1. The UNMOVIC team set out from its headquarters at the Canal Hotel in Baghdad at 8.25 a.m. The team included 18 inspectors and was headed by Mr. Demetrius Perricos. The IAEA team set out from its headquarters at the Canal Hotel in Baghdad at 8.30 a.m. The team included five inspectors and was headed by Mr. Jacques Baute. The two teams arrived at the Sajud presidential palace at 8.55 a.m. A group from both teams also arrived at the same time at the rear gate to the palace. At 9 a.m., the head of the team asked the Iraqi side for access to the site. Two minutes later, the head of the inspection team was notified that approval for access to the site had been given. The head and members of the two teams entered the palace and divided into six groups. These groups visited all of the palace buildings and amenities, as well as the nearby Sajda hall. Using portable equipment, a group from the IAEA team conducted a radiation survey inside the palace rooms and halls in order to detect any alleged nuclear activity or allegedly undeclared nuclear materials or radioactive sources. The two teams completed their work and left the Sajud palace at 10.30 a.m. and arrived back at their headquarters at the Canal Hotel in Baghdad at 10.50 a.m.
2. The Sajud presidential palace and the adjacent Sajda hall are among those people's palaces around which the people of Iraq formed a fence in 1998, prior to the United States and United Kingdom aggression of 16-20 September 1998, in order to protect them from the hostile action and iniquities of the attackers. After 1998, this occasion became an annual tradition, by order of the President and leader, may God protect him, where those of the Iraqi people who, in 1998, formed the national human fence around these Iraqi residences, are received at the Sajud palace, the Sajda hall and the other people's palaces as guests of the Presidency of the Republic, which serves them with banquets for the breaking of their fast during the holy month of Ramadan. As part of this annual tradition, hundreds of Iraqis are invited to 11 such banquets in the Sajud palace and Sajda hall, most recently on 1 December 2002, corresponding to 26 Ramadan, A.H. 1423.
3. The people of Iraq, together with international public opinion, are querying the reason for the visit to this presidential palace of hospitality. The objectives of the inspection teams are both stated and clear, namely to search for alleged biological, chemical and nuclear weapons. So which of these weapons did they look for in the Sajud palace and Sajda hall and what did they find there, bearing in mind that the inspectors who entered both premises took no precaution of wearing clothing or masks for protection against the alleged biological, chemical and nuclear agents?

Was this visit truly conducted in order to search for prohibited weapons or was it for other purposes?

The question which presents itself here is: is this an initial step towards the misconduct that will cause the relationship to resume the same tenor as existed between the former United Nations Special Commission and Iraq, or not? Is it a start of the misconduct which the United States, the United Kingdom and the Zionist entity want to impose on the United Nations?

UNMOVIC and IAEA are facing a serious test of their credibility and the extent of their commitment to the pledges which they professionally and objectively made to respect the Charter of the United Nations and international law. The coming days will reveal whether they maintain their neutral international identity or whether they will yield to United States and United Kingdom pressure and turn into a conduit and spying eye for objectives and purposes which are not mentioned in the resolutions of the Security Council but which are, on the contrary, objectives of the United States, the United Kingdom and the Zionist entity.



Security Council

Distr.: General
4 December 2002
English
Original: Arabic

Letter dated 4 December 2002 from the Permanent Representative of Iraq to the United Nations addressed to the President of the Security Council

On instructions from my Government, I have the honour to transmit to you herewith the daily report for 4 December 2002 on the activities of the inspection teams of the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC) and the International Atomic Energy Agency (IAEA) in Iraq (see annex).

I should be grateful if you would have this letter and its annex circulated as a document of the Security Council.

(Signed) Mohammed A. Aldouri
Permanent Representative



Annex to the letter dated 4 December 2002 from the Permanent Representative of Iraq to the United Nations addressed to the President of the Security Council

Daily report on the activities of the UNMOVIC and IAEA inspection teams in Iraq

Daily activity report for 4 December 2002

I

An UNMOVIC team comprising 17 inspectors and led by Mr. Demetrius Perricos set out from its base at the Canal Hotel in Baghdad at 8.30 a.m. At 10.20 a.m. it arrived at the site of the former Muthanna State Establishment some 120 kilometres north of Baghdad. Immediately on arrival, it set about the tasks described hereunder.

1. The team leader met with the site liaison officer from the National Monitoring Directorate (NMD). He was asked to provide information on activities at the site since 1998 and, in particular, on excavation work and the whereabouts of tagged equipment. The NMD representative stated that the tagged equipment was still in storage and that excavation work had been undertaken in order to unearth equipment that had been destroyed and buried by the former Special Commission so as to protect it from misuse and theft, given that it had been buried in a location that was remote and difficult to guard. After they had been unearthed the items of equipment had been placed in storage, and the excavation process had been videotaped. Sensors had also been dismantled and stored in order to secure them.
2. After donning protective clothing, members of the team inspected some equipment, both destroyed and tagged.
3. The team looked at all parts of the site and its ruined facilities.

II

An IAEA team consisting of seven inspectors and led by Mr. Jacques Baute set out from its base at the Canal Hotel in Baghdad at 8.30 a.m. At 8.53 a.m. the team arrived at the Iraqi Atomic Energy Commission (IAEC) site at Tuwaythah, south of Baghdad.

1. The team visited all the buildings of the physics department, including the ceramic, electron physics and radiophysics divisions, as well as the building of the department chief and the laser and plasma division. It took samples from one of the induction furnaces in order to verify that it had not been used for any prohibited activity. The team photographed all the items of equipment, noted their specifications and asked about their use and operation and their connection with the universities.
2. The team visited the chemistry and medical preparations department and observed the activities of the divisions for medical instruments and pharmaceutical precursors.

3. The team visited the radioactive waste treatment station (RWTS), which IAEA had allowed to be refurbished. The team photographed parts of the systems and examined the Agency seals that had been placed on them.

4. Using hand-held devices, the team conducted a radiometric survey of all the locations it visited in order to detect any alleged nuclear activity, nuclear materials or undeclared radiation sources.

III Remarks

1. The former Muthanna State Establishment was the site of the largest and most prolonged destruction activity carried out by the former Special Commission, and a group of inspectors lived there for two full years (1992-1994) destroying equipment, buildings and machinery.

2. The IAEA site at Tuwaythah was one of those said by the two reports of September 2002, one from the United States Government and the other from the British Government, to be producing weapons of mass destruction. The western media published satellite photographs of buildings at the site, specifically those rebuilt after being destroyed in the 30-nation aggression of 1991, and they alleged that they were involved in activities in the field of weapons of mass destruction. It should be recalled that on 7 June 1981 this site, dedicated as it was to nuclear research for peaceful purposes, was the target of a brutal attack by the military aircraft of the Zionist entity and that the site had at that time been placed under the IAEA safeguards regime.



Security Council

Distr.: General
6 December 2002

Original: English

Letter dated 4 December 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to President of the Security Council

I write with reference to my letter of 3 September 2002 (S/2002/999).

The Counter-Terrorism Committee has received the attached supplementary report from Malaysia, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(Signed) **Jeremy Greenstock**
Chairman

Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism



Annex

Letter dated 27 November 2002 from the Permanent Representative of Malaysia to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

In reply to your letter S/AC.40/2002/MS/OC 143 of 27 August 2002, I have the honour to transmit to you the supplementary report of Malaysia, as requested by the Counter-Terrorism Committee pursuant to Security Council resolution 1373 (2001) (see enclosure).*

(Signed) Hasmy Agam
Ambassador/Permanent Representative

* Additional enclosures are on file with the Secretariat and are available for consultation.

Enclosure

Follow-up response of Malaysia to the report submitted to the Counter-Terrorism Committee in pursuance of resolution 1373 (2001)

• Sub-paragraph 1 (a):

- **Do banking secrecy provisions (in particular the Banking and Financial Institutions Act 1989) apply to investigations against alleged terrorists for crimes either already committed or likely to be committed?**

1. Banking secrecy provisions can be looked from two aspects, namely, one under the Banking and Financial Institutions Act 1989 (BAFIA) and secondly, under the Central Bank of Malaysia Act 1958 (CBA).
2. Section 97(i) of the BAFIA provides that no director or officer of any licensed institution, or of any external bureau established, or any agent appointed, by the licensed institution shall give, produce, divulge, reveal, publish or otherwise disclose, to any person, or make a record for any person, of any information or document whatsoever relating to the affairs or account of such customer. However, section 99(1) of the BAFIA allows licensed institutions to disclose such prohibited information if such disclosure, among others, is –
 - 2.1 required or authorised under any other provision of the BAFIA (section 99(1)(g));
 - 2.2 authorised under any Federal law to be made to a police officer investigating into any offence under such law and such disclosure to the police officer, being in any case, limited to the accounts and affairs of the person suspected of the offence ((section 99(1)(h)); or
 - 2.3 authorised in writing by the Bank (section 99(1)(i)).
3. Based on the above provision, if a criminal investigation is carried out by a police officer against an alleged terrorist for crimes already committed or likely to be committed under the Securities Commission Act 1993, Internal Security Act 1960, Kidnapping Act 1961, Dangerous Drugs (Forfeiture of Property) Act 1988 or the Prevention of Corruption Act 1961, section 99(1)(h) of the BAFIA envisages the mandatory disclosure of information to a police officer

since it is pursuant to an order made by the Public Prosecutor requiring such licensed institution to disclose information relating to its customer's affairs or accounts or inspection of the banker's books for the purpose of facilitating the gathering of evidence relating to the commission of an offence under the above legislation. If a criminal investigation is carried out by a police officer against an alleged terrorist under the Penal Code or any written law, such police officer can obtain information about the person from licensed institutions only by obtaining prior written consent from the Bank.

4. BAFIA is administered and enforced by the Central Bank of Malaysia (Central Bank) under section 30(3) of the CBA. In carrying out all the powers under the BAFIA, section 16 of the CBA prohibits directors and officers of the Central Bank from disclosing to any person any information relating to affairs of the Central Bank or of a banking institution or other financial institution which he has acquired in the performance of his duties or the exercise of his functions except if such disclosure is for the purpose of the performance of his duties or the exercise of his functions or when lawfully required to do by any court or under any law. However, section 16A(1) of the CBA authorises the Central Bank to disclose information, among others, to a police officer in charge of a police station or to any other police officer if it suspects that any person has committed any offence, among others, under the CBA, BAFIA or under any written law, or to convey any or all information in relation to such offence to any banking institution, any other financial institution or other person affected by such offence, or to any authority or person having power to investigate or enforce the provision of the law under which the offence is suspected by the Bank to have been committed.

- **Please clarify whether, under section 28B (5) of the Labuan Offshore Financial Services Authority Act 1996, section 21 of the Offshore Banking Act 1990 or any other legal provision, that authority is under a legal obligation to report suspicious activities to the home monetary authority, the home supervisory authority or the domestic law enforcement agency.**

1. Section 20 of the Anti-Money Laundering Act 2001 (AMLA) has overridden secrecy provision imposed by any written law, which is also applicable to offshore legislation in Labuan. Hence LOFSA or the offshore financial institutions in Labuan is required under

the AMLA to report any suspicious transactions to the Competent Authority i.e. Bank Negara Malaysia.

- **Are natural or legal persons other than banks (e.g. attorneys, notaries) required to report to the public authorities suspicious transactions that might be linked to terrorist activities? If so, what penalties apply to persons who omit to report either willfully or by negligence?**

1. At present, the requirement for the reporting of suspicious transactions under the Anti-Money Laundering Act 2001 (AMLA) has not been extended to natural or legal persons. However, the Central Bank plans to include natural or legal persons such as lawyers and accountants as reporting institutions under the First Schedule to the AMLA. The lawyers and accountants would then be compelled to report suspicious transactions under section 14(b) of the AMLA, to the Central Bank if they are included in the First Schedule as reporting institutions. This can be done under section 85 of the AMLA whereby the Minister of Finance (Minister) has the power to amend the First Schedule. Further, section 47 of the AMLA provides that a Judge of the High Court may order an advocate and solicitor to disclose information available to him in respect of any transaction or dealing relating to any property which an investigating officer has reasonable grounds to suspect to be the subject-matter or evidence relating to a money laundering offence. However, the disclosure should not involve privilege information which came to the advocate's knowledge for the purpose of any pending proceedings.
2. If the advocate or solicitor refuses to comply with the High Court order, such person commits an offence and shall on conviction be liable to a fine not exceeding RM250,000. Section 49 further states that the Public Prosecutor has been given the power to request any person whom he has reason to believe is able to assist in the investigation of the money laundering offence, to furnish information so required. If such person willfully fails or refuses to disclose the required information, he commits an offence and shall on conviction be liable to a fine not exceeding RM1 million or to imprisonment for a term not exceeding 1 year or to both and in the case of a continuing offence, to a further fine not exceeding RM1,000 for each day during which the offence continues after conviction.

- **Please explain under which circumstances the penalties provided for by sections 99 and 103 of the Banking and Financial Institutions Act 1989 apply to legal persons ("*bodies corporate*") and to natural persons, respectively.**

1. The penalties provided under section 103 of the BAFIA would apply to legal persons in the circumstance where at the time the offence was committed by any institution, the director, officer or controller of the legal person is unable to prove that the offence involved was committed without his consent or connivance and that he has exercised all such diligence to prevent the commission of the offence as he ought to have exercised. This is provided under section 106. On the other hand, the penalties under section 103 would apply to any natural person when it is proven beyond reasonable doubt that he contravenes any provisions of the BAFIA or any subsidiary legislation under it. It should be noted that section 99 does not provide for any penalties since it merely states the exceptions to the secrecy provision enumerated in section 97 of the BAFIA. Under section 97, the penalties will only apply to the directors and officers of the licensed institution, an external bureau established by the licensed institution or an agent appointed by the licensed institution or any person who breached the confidentiality of the customer's accounts and affairs, but not the licensed institution itself.

- **Please provide the CTC with a progress report on the Anti-Money Laundering Act 2001. Will terrorist acts be included as predicate offences in the Second Schedule to that Act, which specifies the relevant serious offences?**

1. The Anti-Money Laundering Act 2001 (AMLA) was gazetted as law on 5 July 2001 and came into force on 15 January 2002. Since then, it has been invoked on the following reporting institutions:
 - 1.1 Commercial banks, finance companies, merchant banks and Islamic banks with effect from 15 January 2002;
 - 1.2 Life and general insurers, reinsurers, takaful operators, discount houses, offshore banks, offshore insurers and offshore trust companies with effect from 15 April 2002; and

1.3 Money-changers with effect from 1 June 2002.

2. By virtue of section 85 of the AMLA, the Minister on 15 January 2002 had amended the Second Schedule (on the definition of 'serious offence') to include sections 125 and 125A of the Penal Code as part of the 122 predicate offences under the AMLA. The amendment was made through the Anti-Money Laundering (Amendment of Second Schedule) Order 2000 [P.U. (A) 18/2002]. Section 125 provides for the offence of waging war against any power in alliance or at peace with His Majesty the King while section 125A provides for the offence of harbouring or attempting to harbour any person in Malaysia or person residing in a State at war or in hostility against His Majesty the King. The term "harbour" is defined in section 130A to include the supply of money to a person, and as such would encompass the financing of terrorism.

- **Please could Malaysia provide information about the definition used in the Anti-Money Laundering Act 2001 or by the Malaysian authorities in order to distinguish "*large and unusual*" transactions from transactions of a "*suspicious nature*".**

1. "Large and unusual" transactions is provided under section 14(a) of the AMLA to mean any transaction exceeding the amount specified by the competent authority involving both domestic currency or any foreign currency. Meanwhile, transactions of "suspicious nature" refers to any transaction where the identity of the persons involved, the transaction itself or any other circumstances concerning that transaction gives any officer or employee of the reporting institution reason to suspect that the transaction involves proceeds of an unlawful activity, as provided for under section 14(b) of the AMLA. At present, the Central Bank, which is the competent authority to implement Part IV of the AMLA, has not invoked threshold reporting on the reporting institutions. To assist the reporting institutions to identify suspicious transactions, the Central Bank has included examples of suspicious transactions in the Guidelines issued to the banking institutions, insurance companies and money-changing entities. The Guidelines are attached in Appendix I.

- **Section 53 of the Societies Act 1966 makes it an offence to misuse the money or property of a registered society and penalizes any such act with a fine not exceeding RM 5000 (page 22 of the report). In view of the large amounts that can be misused in that manner and which can easily exceed RM 5000, does Malaysia envisage reviewing the penalty provided for the violation of section 53?**

1. Malaysia does not envisage the review of the penalty, as it has been quoted out of context. The penalty is applicable to a member or an office bearer who has failed to deliver up by order of the court the money or property that is subject to the misuse, to the trustees of the society and in the event that the said member or office-bearer duly delivers the money or property to the trustees of the society, then the matter stops there. However, this provision does not address directly the issue of a society being used as terrorist organization or involved in terrorist activities either directly or indirectly.

- **Does Malaysia have any provision for regulating informal banking networks (e.g. Hawala)? Please outline such provisions.**

1. In Malaysia, informal banking networks are prohibited by virtue of section 4 of the BAFIA which requires any person who wants to carry on a banking business to apply for a licence from the Central Bank. A person who contravenes this section shall be liable, upon conviction, to imprisonment for a term not exceeding 10 years or to a fine not exceeding RM10 million, or to both. Section 10 of the Exchange Control Act 1953 (ECA) prohibits any person from carrying on the business of remitting money or in kind outside Malaysia except with the permission of the Controller of Foreign Exchange. Under paragraph 7(2) of the Fifth Schedule to the ECA, anyone who contravenes section 10 shall be liable, upon conviction, to a fine not exceeding RM10,000 or to imprisonment for a term not exceeding 3 years, or to both. Section 30(1) of the Money-Changing Act 1998 prohibits licensed money-changers from remitting or transferring funds outside Malaysia. Nevertheless, a licensed money-changer may, on its own behalf, remit or transfer funds outside Malaysia through an authorised dealer. A licensed money-changer who contravenes this section shall be guilty of an offence and upon conviction be liable to a fine not exceeding RM100,000.

- **Sub-paragraphs 1 (b) and (d):**

- **What measures are there to prevent or punish acts committed by terrorist organizations operating from Malaysia (for example, by fund-raising) for a cause not likely to affect Malaysian interests?**

1. The relevant existing legislative provisions have been listed in the first report to the CTC.
2. Foremost would be section 125 of the Penal Code which makes it an offence to wage war against the Government of any power in alliance or at peace with the King (Head of State) of Malaysia, or to attempt or abet the waging of such war, whether in conjunction with the enemies of the King or otherwise.

Penalty:

- Imprisonment for life, to which fine may be added; or
 - Imprisonment for a term which may extend to 20 years, to which fine may be added; or
 - Fine.
3. Malaysia is also proposing to enact specific legislative provisions to-
 - 3.1 criminalize the willful provision or collection, by any means, directly or indirectly, of funds by Malaysian nationals or in Malaysian territory with the intention that the funds be used, or in the knowledge that they are to be used, to carry out terrorist acts; and
 - 3.2 prohibit Malaysian nationals or any persons and entities within their territories from making any funds, etc. available to carry out terrorist acts.

This matter is being undertaken by the Ministry of Home Affairs.

- **Does section 59 of the Internal Security Act 1960 criminalize all the offences set forth in Article 2 of the International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999?**

1. Section 59 of the Internal Security Act 1960 criminalises the demand, collection and receipt of any supplies within or outside a security area for the use of any terrorist.

- **Since the legal provisions listed in sub-paragraphs 1 (b) and (d) of the report do not seem to fully implement sub-paragraphs 1 (b) and (d) of the Resolution, please explain which additional measures Malaysia intends to take in order to criminalize and prohibit the collection and provision of the funds and other financial assets or economic resources, etc, as required by those sub-paragraphs of the Resolution.**

1. Malaysia is proposing to enact specific legislative provisions for this purpose. This matter is being undertaken by the Ministry of Home Affairs.

- **Sub-paragraph 1 (c):**

- **Since the legal provisions listed in sub-paragraph 1 (c) of the report do not seem to implement sub-paragraph 1 (c) of the Resolution in its entirety, please explain which additional measures Malaysia intends to take in order to be able to freeze the funds and other financial assets or economic resources, as required by that sub-paragraph of the Resolution.**

1. Malaysia is proposing to enact specific legislative provisions for this purpose. This matter is being undertaken by the Ministry of Home Affairs.

2. The Governor of the Central Bank, as the Controller of the Foreign Exchange, has issued 7 circulars under section 44 of the Exchange Control Act 1953 to all licensed financial institutions and licensed offshore financial institutions to freeze the funds and

financial resources, including funds derived or generated from property owned or controlled, directly or indirectly, by Osama bin Laden, the Al-Qaeda organization or the Taliban and other individuals, groups or entities associated with them as listed in the UN Security Council Resolutions 1267 and 1390.

• **Sub-paragraph 2 (a):**

- **Is the Registrar empowered under the Societies Act 1966 to cancel the registration of any society which is likely to be used to support terrorist activities directed against foreign interests?**

1. The Registrar is empowered to cancel any society wherein it is found that the society is likely to be used for unlawful purposes or for purposes prejudicial to or incompatible with peace, welfare, good order or morality in Malaysia (which include terrorist activities) or it is pursuing objects other than the objects with which the society is registered or it has wilfully contravened any provision of the Act or any regulation made thereunder or any of its rules with which it is registered.

- **Please outline Malaysia's import and export control regime for weapons and explosives to the extent it is relevant to eliminate the supply of weapons to terrorists.**

1. The following are the relevant legislative provisions relating to the said control regime:
 - 1.1 Section 15 of the Arms Act 1960 prohibits the importation of arms or ammunition into Malaysia either by air, sea or land without a licence in that behalf.
 - 1.2 Section 17 requires any person entering Malaysia who has in his possession any arms or ammunition shall make a declaration to the authorities.
 - 1.3 Section 19 prohibits the exportation of arms or ammunition from Malaysia either by air, sea or land without a licence in that behalf.

□ Is there any provision in Malaysian law to prohibit the acquisition of firearms without a license (especially at the time of purchase)?

1. The following are the relevant legislative provisions relating to the prohibition of the acquisition of firearms without license:

- 1.1 Section 3 of the Arms Act 1960 criminalises the possession, custody or control of any arms or ammunition without an arms licence.
- 1.2 Section 9 of the Arms Act 1960 provides that no person shall sell, transfer, keep and expose for sale any arms or ammunition without a valid licence.
- 1.3 Section 11 criminalises the sale or transfer of arms or ammunition except to licensed dealer or repairer, holder of a licence or permit or to a police officer.

□ Are there legal provisions prohibiting the brokering of weapons to terrorists and their organizations?

Section 59 of the Arms Act 1960 is applicable as 'supplies' includes firearms, ammunition and explosives.

• Sub-paragraph 2 (b):

□ Please outline the content of section 130 of the Penal Code to the extent it is relevant for the implementation of this sub-paragraph.

- 1. With reference to the report submitted to the CTC, it is noted that s130 of the Penal Code was not cited as being relevant for the implementation of this subparagraph.
- 2. S130 of the Penal Code makes it an offence to knowingly aid or assist any prisoner of State or prisoner of war in escaping from lawful custody, or to rescue or attempt to rescue any such prisoner, or to harbour or conceal any such prisoner who has escaped from lawful custody, or to offer or attempt to offer any resistance to the recapture of such prisoner. As such it has nothing to do with the obligation under subparagraph 2(b) to

prevent the commission of terrorist acts, including by provision of early warning to other States by exchange of information.

3. Instead, section 130A of the Penal Code was cited in the report since it defines the term "harbour" as used in section 125A of the Penal Code. The term is defined as follows:

"harbour" includes the supplying a person with shelter, food, drink, money or clothes; or, except by a person employed in a Government hospital, medicine, bandages, surgical dressings or any other form of aid to a person wounded; or arms, ammunition or means of conveyance, or the assisting a person in any way to evade apprehension;".

4. In any case, as explained in the report, Malaysia gives effect to the requirements of this subparagraph through administrative measures.

□ **Please provide the CTC with information on the mechanism for inter-agency co-operation between the authorities responsible for narcotics control, financial tracking and security, with particular regard to the border controls preventing the movement of terrorists.**

1. There are various enforcement agencies that safeguard the entry/exit points of the country. In particular, agencies responsible for denying access by terrorists and criminals into the country consist of the Immigration Department, Royal Malaysia Police and the Anti-Smuggling Unit which falls within the purview of the Ministry of Home Affairs.
2. All of these agencies cooperate by extending assistance where needed such as by information exchange, etc.
3. At the Ministerial level, there exists the National Security Council chaired by the Honourable Prime Minister of Malaysia. The National Security Council discusses national security issues that include cooperation among the enforcement agencies.
4. In respect of financial tracking, the mechanism for inter-agency cooperation to control and prevent the movement of terrorists in Malaysia is under the purview of the National Coordination Committee to Counter Money Laundering (NCC). The NCC consists of the Central Bank as the lead agency and the following 12 government agencies:

- 4.1 Anti-Corruption Agency;
 - 4.2 Attorney-General's Chambers;
 - 4.3 Companies Commission of Malaysia;
 - 4.4 Inland Revenue Board;
 - 4.5 Labuan Offshore Financial Services Authority;
 - 4.6 Ministry of Finance;
 - 4.7 Ministry of Foreign Affairs;
 - 4.8 Ministry of Home Affairs;
 - 4.9 National Drugs Agency;
 - 4.10 Royal Malaysian Customs;
 - 4.11 Royal Malaysian Police; and
 - 4.12 Securities Commission.
5. The NCC has adopted a set of Terms of Reference to guide its activities. The NCC's objectives are as follows-
- 5.1 Develop national policy on measures to counter money laundering;
 - 5.2 Coordinate national policies with regional and international initiatives;
 - 5.3 Agree on an action plan to counter money laundering in Malaysia;
 - 5.4 Ensure Malaysia complies with its APG membership requirements and paragraph 15 of the UN Political Declaration and Action Plan Against Money Laundering to have anti-money laundering legislation in place by year 2003;

- 5.5 Develop and ensure proper implementation of measures to counter money laundering based on internationally accepted standards, i.e. the 40 Recommendations of the Financial Action Task Force on Money Laundering (FATF);
- 5.6 Identify and remedy any overlap or discrepancy between the existing and proposed measures to counter money laundering;
- 5.7 Monitor the effectiveness of measures that have been implemented; and
- 5.8 Liaise with foreign governments and international organisations or bodies on matters relating to money laundering, including terrorism.

□ Which are the institutions in Malaysia responsible for providing early warning to other States?

- 1. There are various enforcement institutions which communicate with their respective counter-parts in other States.

• Sub-paragraph 2 (c):

□ Please provide examples of relevant action taken, if any.

- 1. Due to the national security and confidentiality, the relevant information cannot be disclosed.

• Sub-paragraphs 2 (d) and (e):

□ Apart from sections 120A, 125 and 126 of the Penal Code, are there any existing or proposed legal provisions dealing with terrorism, both within and outside Malaysia?

- 1. The relevant existing legislative provisions have been listed in the report to the CTC. These are –

- 1.1 Section 108A of the Penal Code;
- 1.2 the Internal Security Act 1960;
- 1.3 the Societies Act 1966;
- 1.4 the Emergency (Public Order and Prevention of Crime) Ordinance 1969;
- 1.5 the Prevention of Crime Act 1959;
- 1.6 Public Order (Preservation) Act 1958;
- 1.7 Kidnapping Act 1961;
- 1.8 Extraterritorial Offences Act 1976;
- 1.9 Extradition Act 1992; and
- 1.10 Mutual Assistance in Criminal Matters Act 2002.

2. Further, Malaysia is proposing to enact specific legislative provisions to criminalize and prohibit the collection and provision of funds and other financial assets or economic resources etc. This matter is being undertaken by the Ministry of Home Affairs.

□ Is Malaysia able to claim jurisdiction over all offences listed in subparagraph 2 (d) of the Resolution and bring the perpetrators of such offences to justice, if they are citizens or permanent residents of Malaysia? Please outline the legal provisions which are relevant in that context.

1. Yes, Malaysia is able to claim jurisdiction over all offences listed in subparagraph 2(d) of the Resolution and bring the perpetrators of such offences to justice, if they are citizens of or permanent residents in Malaysia.
2. The relevant legal provisions are as follows:

2.1 Penal Code

- 2.1.1 S2 provides that every person shall be liable to punishment under the Penal Code for every act or omission contrary to the provisions of the Penal Code, of which he shall be guilty within Malaysia
- 2.1.2 S3 provides that any person liable by law to be tried for an offence committed beyond the limits of Malaysia shall be dealt with according to the provisions of the Penal Code for any act committed beyond Malaysia in the same manner as if such act had been committed within Malaysia.
- 2.1.3 Section 4 provides that the provisions of Chapter VI of the Penal Code (Offences against the State - s121-130A) shall apply to any offence committed –
 - 2.1.4 by any citizen or any permanent resident on the high seas on board any ship or on any aircraft whether or not such ship or aircraft is registered in Malaysia;
 - 2.1.5 by any citizen or any permanent resident in any place without and beyond the limits of Malaysia, as if the offence had been committed in Malaysia.

2.2 Courts of Judicature Act 1964

- 2.2.1 S22 provides that the High Court has jurisdiction to try-
 - all offences committed –
 - within its local jurisdiction;
 - on the high seas on board any ship or on any aircraft registered in Malaysia;

- by any citizen or any permanent resident on the high seas on board any ship or on any aircraft;
- by any person on the high seas where the offence is piracy by the law of nations; and
- offences under Chapter VI of the Penal Code and under any of the written laws specified in the Schedule to the Extra-Territorial Offences Act 1976, or offences under any other written law the commission of which is certified by the Attorney General to affect the security of Malaysia committed, as the case may be –
- on the high seas on board any ship or on any aircraft registered in Malaysia;
- by any citizen or any permanent resident on the high seas on board any ship or on any aircraft;
- by any citizen or any permanent resident in any place without and beyond the limits of Malaysia.

2.3 Aviation Offences Act 1984

- 2.3.1 Section 4 provides that for the purposes of the application of the Extradition Act 1992 to crimes committed on board an aircraft in flight, any aircraft registered in a Convention country shall, at any time while that aircraft is in flight, be deemed to be within the jurisdiction of that Convention country whether or not it is for the time being also within the jurisdiction of any other country.
- 2.3.2 Section 2(1) defines "Convention country" to mean a country which has ratified or acceded to the Convention on Offences and Certain other Acts Committed on Board Aircraft (the Tokyo Convention).

❑ **Why is the Prevention of Crime Act 1959 only applicable to Peninsular Malaysia?**

1. Malaysia has several laws that apply in this matter. Although the Prevention of Crime Act 1959 only applies in West Malaysia, the Emergency (Public Order and Prevention of Crime) Ordinance No. 5 of 1969 applies throughout Malaysia.

❑ **How is the term "*secret society*" defined in the Prevention of Crime Act 1959 or by the Malaysian authorities and is this definition relevant for the implementation for sub-paragraph 2 (e) of the Resolution?**

1. The term "secret society" refers to registrable categories under the Act as provided in the First Schedule Part 1.
2. The definition includes members who participate in Triad ritual or societies that maintain secrecy as to their objects or constituted or used for the purposes involving the commission of offences that are seizable under the law.
3. This definition is relevant for the implementation for sub-paragraph 2(e) of the Resolution.

❑ **Please explain the term "*extra-territorial jurisdiction*" as used in the context of the Extra-territorial Offences Act 1976 and how this jurisdiction is applied by the Malaysian authorities in law as well as in practice in order to implement sub-paragraph 2 (e) of the Resolution.**

1. The term "extra-territorial jurisdiction" as used in the context of the Extra-territorial Offences Act 1976 means that Malaysian authorities claim jurisdiction over certain specified offences under Malaysian law as if these offences were committed in Malaysia when such offences are committed -

- 1.1 on the high seas on board any ship or on any aircraft registered in Malaysia.

- 1.2 by any citizen or permanent resident on the high seas on board any ship or on any aircraft
 - 1.3 by any citizen or permanent resident in any place without and beyond the limits of Malaysia.
2. These offences are specified in section 2 of the Extra-territorial Offences Act 1976 as follows:
 - 2.1 any act contrary to the provisions of the Official Secrets Act 1972 and the Sedition Act 1948
 - 2.2 any offence under any other written law the commission of which is certified by the Attorney General to affect the security of Malaysia.
3. Subparagraph 2(e) of the Resolution requires States to ensure that-
 - 3.1 any person who participates in the financing, planning, preparation or perpetration of terrorist acts or participates in supporting terrorist acts is brought to justice
 - 3.2 in addition to any other measures against them, such terrorist acts are established as serious criminal offences in domestic laws and regulations and that the punishment duly reflects the seriousness of such terrorist acts.
4. Therefore, if the person who participates in the financing, planning, preparation or perpetration of terrorist acts or participates in supporting terrorist acts is a citizen or permanent resident of Malaysia or if the terrorist acts specified are committed on a Malaysian registered vessel or aircraft, Malaysia would claim jurisdiction over the offence as if the offence had been committed within Malaysia and, where the evidence is sufficient, duly prosecute such person in accordance with the law.
5. Malaysia has not had to invoke the Extra-territorial Jurisdiction Act 1976 to date as those suspected of compromising the security of Malaysia have committed their acts within Malaysia.

- **Which written laws and which aspects of the rule of law prevent the Public Prosecutor from authorizing an investigation or from requiring statements in accordance with sections 48 and 49 of the proposed Anti-Money Laundering Act 2001 (page 64 of the report)?**

1. The opening line for section 48 reads, "Notwithstanding the provisions of any other written law or any rule of law,..." while the opening line of section 49 reads "Notwithstanding any law or rule of law to the contrary,..." show that both provisions have overriding effect over any other written law or rule of law. Hence, the powers of the Public Prosecutor to authorise investigations under sections 48 and 49 cannot be prevented by any other written law.

- **Sub-paragraph 2 (f):**

- **Please describe how the requirement of reciprocity (pages 17 and 52 of the report) is or will be applied in practice in relation to judicial assistance in criminal matters and extradition, if the only evidence available is meager or contradictory.**

1. The designated central authority will decide whether to give effect to an extradition request or a request for mutual assistance in a criminal matter based on the information disclosed in the request and the undertaking that reciprocal treatment will be accorded to Malaysia for a similar request.
2. A certain level of detail and specificity would be required in the request to enable the competent authority in the requested State to give effect to the request, be it to take evidence for criminal proceedings, to obtain a production order for documents and other materials, to arrange for the attendance of a person in the requesting State to give evidence or assistance in a criminal matter, to enforce a foreign forfeiture order or to restrain dealings in property, to carry out search and seizure, to locate or identify and locate a person or to assist in the service of process.

3. The general rule is that assistance and cooperation will be given to the extent possible unless the request is intended merely as a "fishing expedition" or to do so would prejudice national interests.
-
- **Section 10 of the proposed Anti-Money Laundering Act 2001 empowers the Central Bank of Malaysia to communicate information to a corresponding authority if there exists a reciprocal arrangement between Malaysia and the State of that authority (page 44 of the report). Please list the countries with which such arrangements exist.**
 1. At the moment Malaysia has not entered into any arrangements with any countries for the exchange of information. However, work is currently under progress to sign a Memorandum of Understanding with the Australian Transaction Reports and Analysis Centre (AUSTRAC) concerning cooperation in the exchange of financial intelligence.

 - **Will it be possible to waive the requirement in section 10 of the proposed Anti-Money Laundering Act 2001, under which the corresponding authority must undertake, in particular, not to use the information as evidence in any proceedings?**
 1. Section 10 may be waived by section 80 of the AMLA which provides for the Minister of Finance, upon the recommendation of the competent authority, to exempt a person or class of persons from all or any of the provisions of Part III, including section 10, if he considers it consistent with the purposes of the AMLA or in the interest of the public.

 - **What is the legal timeframe within which a request for judicial assistance in criminal investigations or criminal proceedings (especially those relating to the financing or support of terrorist acts) must be met? How long does it actually take in practice to implement such a request?**
 1. There is no "legal timeframe" within which a request for judicial assistance in criminal investigations or criminal proceedings must be met. The requesting State is required to

specify its requirements in this regard, especially in cases of urgency, in the request to Malaysia.

2. Where a timeframe is specified, Malaysia will use its best endeavours to meet that timeframe. In all other cases, the matter will be dealt with as expeditiously as may be possible depending on the complexities of the matter.
3. Malaysia's Mutual Assistance in Criminal Matters Act 2002 has not come into operation yet and thus we are unable to categorically state how long it would actually take in practice to implement such a request. Malaysia also has not provided any mutual assistance under Part VII of the Dangerous Drugs (Forfeiture of Property) Act 1988.

□ Please provide any available details on how this sub-paragraph has been implemented in practice.

1. The Royal Malaysia Police and the Financial Intelligence Unit of the Central Bank of Malaysia have been providing the necessary assistance to and cooperating with foreign law enforcement agencies upon request in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts, including assistance in obtaining evidence in their possession necessary for the proceeding, in accordance with domestic law.
2. The exact details of the assistance and cooperation are confidential.

• Sub-paragraph 2 (g):

□ What action has been taken, or is proposed, by Malaysia to implement controls at its ports in order to prevent the movement of persons involved, or alleged to be involved, in terrorist acts?

1. The Royal Customs and Excise Department under the purview of the Ministry of Finance place its personnel at all the ports in Malaysia. The Department is responsible for the security checks on all transshipment into Malaysia via the ports. This may help to detect illegal entry or exit of alleged terrorists.

2. The Marine police from the Royal Malaysia Police are stationed strategically at the ports enabling enforcement operations to be carried out where needed. The Royal Malaysia Navy and Air Force provide sea and air surveillance.
3. Immigration personnel are also present at the ports to facilitate entry/exit arrangements that would ensure those who are sought by the enforcement authorities do not leave the country.

□ **Could Malaysia please outline the 1984 Agreement on Security Arrangements at the Border Areas between the Government of Malaysia and the Government of the Republic of Indonesia (MALINDO) –(page 70 of the report)?**

1. The 1984 Agreement on Security Arrangement at the Border Areas between the Government of Malaysia and the Government of the Republic of Indonesia (MALINDO) deals with the communist insurgency and illegal logging.
2. The Agreement is currently being reviewed to take into account, among others, transnational crime which includes terrorism and other related criminal matters in the border areas such as arms and drug trafficking, piracy and disaster assistance (search and rescue).

□ **Have any specific measures been taken under the Immigration Act 1959/63, in accordance with section 8 or 9 for example, in order to implement subparagraph 2 (g) of the Resolution?**

1. The Malaysian Immigration Department placed its officers at all entry and exit points in Malaysia. Entry is refused to those who have been blacklisted due to past offences committed while in Malaysia, illegal immigrants and those whose name have been given by the United Nations as posing security threats.

- **Please explain how the procedures for the issuance of identity papers and travel documents prevent the counterfeiting, forgery or fraudulent use of those documents and what measures exist to prevent their forgery etc.**

1. An identity card is issued to a national of Malaysia. Upon reaching the age of 12, a citizen of Malaysia would be issued with an identity card upon application to the National Registration Department. For permanent residents, they would also be issued identity cards that are differentiated by colour from those of citizens. However, application for permanent resident status in Malaysia is stringent. A person would have to stay and work in Malaysia for a period of at least 5 years and fulfill other conditions before being allowed to apply.
2. Passports are issued to citizens of Malaysia.
3. To prevent forgery, Malaysia has incorporated the use of 'smart chip' in the issuance of new identity cards known as MyCard and also the introduction of the 'smart' passports. The 'smart chip' embodies personal information of the bearer of such identity card or passport that can only be read by specialized readers.

- **Sub-paragraphs 3 (a) and (b):**

- **Please describe the administrative measures that have been taken in order to implement these sub-paragraphs of the Resolution.**

1. The Royal Malaysia Police has extensive networking with its counterpart either through the Interpol Division or the respective Divisions such as Narcotics and Serious Crime Division. Exchanges of information such as the whereabouts of suspected criminals and other information is facilitated through the networking.
2. Joint investigation is also carried out where the alleged offence is carried out in more than one jurisdiction.
3. The Malaysian Immigration Department has also introduced new conditions and procedures for entry into Malaysia. Entry into Malaysia for certain countries is only

allowed with reference and payment of a security bond. The social visit pass is not allowed to be extended from the initial period given.

4. The Malaysian Smart Passport has also been introduced with integrated security features to prevent forgery and falsification of passports.

□ **Which are the authorities responsible in Malaysia for exchanging information and co-operating internationally in accordance with the requirements of these sub-paragraphs.**

1. The Ministry of Home Affairs, National Security Division, Prime Minister's Department, Royal Malaysia Police and the Malaysian Immigration Department.

• **Sub-paragraph 3 (c):**

□ **Please provide the CTC with a progress report on the proposed Agreement on Exchange of Information and Establishment of Communication Procedures between Malaysia, Indonesia and the Philippines.**

1. The Agreement on Exchange of Information and Establishment of Communication Procedures between Malaysia, Indonesia and the Philippines was signed on 7 May 2002.
2. It will come into force once all the Parties have complied with their domestic requirements for its entry into force.
3. On 30 July 2002, Cambodia executed a Protocol to accede to the Agreement on Exchange of Information and Establishment of Communication Procedures as provided for under the Agreement while on 5 November 2002, Thailand executed a similar Protocol to accede to the Agreement.

□ **Has Malaysia entered into bilateral agreements to prevent and suppress terrorist attacks and take action against perpetrators of such acts? With which countries has Malaysia entered into bilateral treaties on extradition and mutual legal assistance?**

1. Yes, Malaysia has entered into bilateral agreements to prevent and suppress terrorist attacks and take action against perpetrators of such acts. These are-
 - 1.1 the Declaration of Cooperation between the Government of Malaysia and the Government of the United States of America on Cooperation to Combat International Terrorism signed on 14 May 2002.
 - 1.2 the United States of America-ASEAN Joint Declaration for Cooperation to Combat International Terrorism signed on 1 August 2002.
 - 1.3 the Memorandum of Understanding between the Government of Malaysia and the Government of Australia on Cooperation to Combat International Terrorism signed on 2 August 2002.
2. In addition, Malaysia has entered into bilateral security agreements with several countries. These include the Joint Border Security Agreements with Thailand, Indonesia and the Philippines.
3. Malaysia has extradition treaties with the Republic of Indonesia (1992), the Kingdom of Thailand (1992), the United States of America (1997) and Hong Kong, China (2000).
4. Part V of the Extradition Act 1992 makes special provision for the return of fugitive criminals to Brunei Darussalam and the Republic of Singapore.
5. Section 16 of the Aviation Offences Act 1984 provides that where there is no arrangement relating to extradition in force between Malaysia and a State which is a party to the Convention for the Suppression of Unlawful Seizure of Aircraft or the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, as the case may be, the Conventions may be regarded to have effect as if they were arrangements relating to extradition for the purposes of the Extradition Act 1992.

6. Malaysia's Mutual Assistance in Criminal Matters Act 2002 has not come into operation yet. However, it is anticipated that mutual legal assistance treaties will be entered into once the Act comes into operation.
7. No bilateral treaties have been made under Part VII of the Dangerous Drugs (Forfeiture of Property) Act 1988.

- **Sub-paragraph 3 (d):**

- **The CTC would welcome a progress report, in relation to the twelve relevant international conventions and protocols relating to terrorism, on:**

- **the steps taken in order to become a party to the instruments to which Malaysia is not yet a party; and**
 - **progress made in enacting legislation, and making other necessary arrangements, to implement the instruments to which it has become a party.**

1. In relation to the first bullet, Malaysia has established an Inter-Agency Committee on International Terrorism to study the remaining instruments to which Malaysia is not yet a party with a view to making appropriate recommendations to the government whether Malaysia is able to accede to the instrument and to recommend the legislative and other action that may be required, if any, to implement those instruments.
2. In relation to the second bullet, Malaysia has enacted the Aviation Offences Act 1984 to implement the following Conventions:
 - 2.1 the Convention on Offences and Certain Other Acts Committed on Board Aircraft which Malaysia ratified on 5 March 1985;
 - 2.2 the Convention for the Suppression of Unlawful Seizure of Aircraft which Malaysia ratified on 4 May 1985; and

- 2.3 the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation which Malaysia ratified on 4 May 1985.
3. Malaysia is taking action to amend the Aviation Offences Act 1984 to enable it to ratify the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Aviation which it signed on 24 February 1988.

• **Sub-paragraph 3 (e):**

□ **Have the offences set forth in the relevant international conventions and protocols relating to terrorism been included as extraditable offences in the bilateral treaties to which Malaysia is a party?**

1. The Extradition Act 1992 provides that extraditable offences are offences punishable with a term of imprisonment of more than one year or by death. The extradition treaty between Malaysia and USA follows this provision. It provides that extraditable offences are offences punishable with imprisonment by more than one year or with heavier punishment. The extradition treaties between Malaysia and Thailand, Indonesia and Hong Kong list the specific extraditable offences.
2. As for Hong Kong, extraditable offences includes murder, manslaughter, inflicting grievous bodily harm, offence against the law of dangerous drugs, possession or laundering proceeds obtained from the commission of any offence for which surrender may be granted, criminal damage, offences relating to firearms and ammunition and explosives, unlawful seizure of aircraft, smuggling and piracy.

- **Sub-paragraph 3 (f):**

- **Please elaborate on the legal provisions governing entry into Malaysian territory to the extent they are relevant for the implementation of this sub-paragraph and have not been outlined in sub-paragraph 2 (c) of the report (pages 49 to 52).**

Please refer to Sub-paragraph 2(c) of the Malaysian report.

1. Persons who are within the prohibited class of immigrants under the Immigration Act 1959/63 may be denied entry at Malaysia's orders/entry points by the Director General.
2. This class includes any person who believes in or advocates the overthrow by force or violence of any Government in Malaysia or of any established government or of constituted law or authority or who disbelieves in or is opposed to established government, or who advocates the assassination of public officials, or who advocates or teaches the unlawful destruction of property.
3. In the case of such persons who have entered the country legally, the Government may revoke their visas, where such a requirement is in place. The position of nationals from countries with which Malaysia has made arrangements to remove visa requirements may be more difficult. In such cases, deportation may depend on the commission of an offence under domestic law.
4. In the case of such persons who have entered the country illegally, the Government may deport them. However, the Government would first have to establish their country of origin before they may be repatriated and this will also require the co-operation of the country of origin.
5. Such persons may also be extradited upon request subject to satisfaction of the conditions imposed under the Extradition Act 1992 and the relevant extradition treaty.

• Sub-paragraph 3 (g):

- Sub-paragraph 3 (g) of the Resolution requests States to ensure "*that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists*". In view of section 8 of the Extradition Act 1992, please clarify how Malaysia intends to meet this requirement.

1. Section 8(a) of the Extradition Act 1992 provides that a fugitive criminal shall not be surrendered to a country seeking his return if the offence in respect of which his return is sought is of a political character or he proves to the satisfaction of the Sessions Court before which he is brought or of the Minister that the warrant for his return has in fact been made with a view to try or punish him for an offence of a political character.
2. However, section 9 of the Extradition Act 1992 provides limitations on the political offence exception as follows:

"For the purposes of paragraph 8(a), any of the following offences shall not be held to be offences of a political character in relation to a country which has made corresponding provisions in its laws:

- 2.1 murder or other wilful crime against the person of a Head of State or a member of the Head of State's immediate family;
- 2.2 an act which, under a multilateral treaty to which Malaysia and the country seeking the return of the fugitive criminal are parties, constitutes an offence for which a person will be extradited or prosecuted notwithstanding the political character or motivation of such act;
- 2.3 any attempt, abetment or conspiracy to commit any of the foregoing offences."
3. For the purposes of section 9(b) of the Extradition Act 1992, it is noted that the 12 UN Terrorism Conventions and Protocols expressly provide that the offences criminalized under those instruments constitute offences for which a person will be extradited or prosecuted notwithstanding the political character or motivation of such acts.

4. Malaysia is already a party to 3 of those Conventions and the relevant Ministries and agencies are studying the remaining Conventions with a view to making appropriate recommendations to the Government.

- **Paragraph 4:**

- **Has Malaysia addressed any of the concerns expressed in paragraph 4 of the Resolution?**

1. Special Session of the OIC Foreign Ministers on Terrorism, held in Kuala Lumpur from 1 - 3 April 2002, adopted the Kuala Lumpur Declaration on International Terrorism. The Declaration reflects the principled position of the OIC member countries and also outlined a Plan of Action that would be undertaken by the OIC member countries.
2. Malaysia has hosted the 2nd Annual Senior Senior Officials Meeting on Transnational Crime from the 16-17th May 2002. Malaysia also participated in the ASEAN Ministerial Meeting on Transnational Crime held in Singapore in 2001. Malaysia is an active participant in other regional and international conventions and meetings that discuss issues of transnational crime.

- **Other matters:**

- **Could Malaysia please provide an organizational chart of its administrative machinery, such as police, immigration control, customs, taxation and financial supervision authorities, established to give practical effect to the laws, regulations and other documents that are seen as contributing to compliance with the Resolution.**

Not available.